

**SPECIAL COMMISSION OF INQUIRY  
INTO MATTERS RELATING TO THE POLICE INVESTIGATION OF  
CERTAIN CHILD SEXUAL ABUSE ALLEGATIONS IN THE CATHOLIC  
DIOCESE OF MAITLAND-NEWCASTLE**

At Newcastle Supreme Court  
Court Room Number 1, Church Street, Newcastle NSW

On Monday, 29 July 2013 at 10.14am  
(Day 18)

Before Commissioner: Ms Margaret Cunneen SC

Counsel Assisting: Ms Julia Lonergan SC  
Mr David Kell  
Mr Warwick Hunt

Crown Solicitor's Office: Ms Emma Sullivan,  
Ms Jessica Wardle

1 MR WILLIS: Just for the record, my name is Willis.  
2 Mr Cohen is not available today. I'll be appearing for  
3 Mr Fox.  
4

5 MS LONERGAN: Commissioner, two issues were raised on  
6 Friday afternoon which need to be dealt with. The first  
7 was an assertion by Mr Saidi, who acts for the NSW Police  
8 Service that there was a procedural fairness issue that had  
9 been substantially overlooked in relation to the calling or  
10 otherwise of a particular witness.  
11

12 The second, Commissioner, concerned an issue regarding  
13 the integrity of the Special Commission of Inquiry  
14 processes relating to an application for a non-publication  
15 order that was made late on Friday afternoon. Turning back  
16 to the first matter, this Special Commission of Inquiry is  
17 an investigative process and the public hearings are part  
18 of that investigative process. As is evident to all in  
19 court and particularly those at the bar table, the  
20 investigative process and the public hearings are not  
21 finished. On occasion evidence will be given by a witness  
22 which leads to the necessity to call another witness. This  
23 has been dealt with on a number of occasions during the  
24 progress of the public hearing and on many occasions before  
25 the public hearing started as well.  
26

27 As set out in the practice note if any party sees a  
28 witness as relevant, all they have to do is to approach the  
29 staff who assist you, Commissioner, and their request or  
30 suggestions will be entertained with courtesy and will be  
31 acted upon.  
32

33 It is wrong and unfair to say, as Mr Saidi did at  
34 page 1888 of the transcript on Friday, that there was a  
35 procedural fairness issue in the circumstances. What had  
36 happened was that the calling of a particular witness  
37 crystallised the need to add another person to the list and  
38 the proper way to raise that would have been a discussion  
39 with counsel assisting and it could be dealt with in the  
40 normal course, as it has been on many other occasions.  
41

42 THE COMMISSIONER: And on this occasion I believe.  
43

44 MS LONERGAN: On this occasion I'm sure we can expect the  
45 assistance and cooperation that we have been provided with  
46 to date by those who act for the Police Service, who have  
47 on many occasions assisted us with the provision of

1 statements and records and assistance.

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1 diocese?  
2 A. Yes.  
3  
4 Q. Can I show you a notice of appointments document.  
5 I'll hand one to the Commissioner. You were ordained on  
6 24 August 1974?  
7 A. I was.  
8  
9 Q. Father, have you been incardinated to the diocese  
10 since that time?  
11 A. Ever since then, yes.  
12  
13 Q. You've been located at various parishes since being  
14 incardinated?  
15 A. That's right.  
16  
17 Q. Commencing at Muswellbrook?  
18 A. Commencing at Muswellbrook, that's right.  
19  
20 Q. Was that a position as an assistant priest?  
21 A. Assistant priest.  
22  
23 Q. You then went to Raymond Terrace?  
24 A. Yes.  
25  
26 Q. You are nodding yes. Then to Charlestown?  
27 A. Yes.  
28  
29 Q. And then to other parishes?  
30 A. Yes.  
31  
32 Q. From 1998 you were based at Nelson Bay parish?  
33 A. I was.  
34  
35 Q. And that was from January of that year?  
36 A. Just before Christmas of 1997.  
37  
38 Q. How long were you at Nelson Bay?  
39 A. Six years.  
40  
41 Q. When did you leave Nelson Bay?  
42 A. February 2004.  
43  
44 Q. You were then at Charlestown-Gateshead?  
45 A. Charlestown-Gateshead.  
46  
47 Q. What position did you have there?

1 A. Parish priest.  
2  
3 Q. From there to your present position at MacKillop?  
4 A. That's correct.  
5  
6 Q. I just want to ask you whether in that period of time  
7 you held any particular offices other than obviously the  
8 important position of parish priest with the diocese, were  
9 you involved in any of the Diocesan consultors?  
10 A. I was never a consultor.  
11  
12 Q. Were you ever a member of the Council of Priests of  
13 the diocese?  
14 A. For one meeting.  
15  
16 Q. When was that?  
17 A. In the late 1970s, early 1980s as a representative of  
18 the region. That was only one meeting, though.  
19  
20 Q. Taking into the account the fact that you only went to  
21 one meeting, for what period of time were you actually a  
22 member of the Council of Priests?  
23 A. Three months maximum.  
24  
25 Q. How did it come to happen that you were a member only  
26 for that period of time?  
27 A. The other priests in the region elected me to it.  
28  
29 Q. Why was it that you ceased to be a member of the  
30 Council of Priests after three months?  
31 A. I think the council had finished its term and a new  
32 council was elected by the diocesan priests.  
33  
34 Q. You have been a priest of the parish since 1974 and  
35 assistant priest since 1974.  
36 A. A priest of the diocese, yes.  
37  
38 Q. I just wants to ask you about whether in the 1970s and  
39 1980s there were particular occasions when the priests of  
40 the parish would come together for work or social --  
41 A. Priests of the diocese come together twice a year for  
42 clergy conferences.  
43  
44 Q. Twice a week - sorry, twice a year?  
45 A. Twice a year for clergy conferences, yes.  
46  
47 Q. Were those conferences at which all of the priests of

1 the parish would regularly attend?  
2 A. That's right.  
3  
4 Q. Were there other events where the priests of the  
5 parish would come together in the 1970s and 1980s?  
6 A. It would have been social groupings, but I wasn't part  
7 of them. I didn't play golf.  
8  
9 Q. Were there also weekend retreats from time to time?  
10 A. There would be a diocesan retreat each year for a  
11 period of one week.  
12  
13 Q. I just want to ask you about Father Denis McAlinden.  
14 You were aware he is one of the priests that this inquiry  
15 is concerned with?  
16 A. I'm aware of that, yes.  
17  
18 Q. Had you ever met Father Denis McAlinden?  
19 A. To the best of my knowledge I had never met him.  
20  
21 Q. I want to ask you when you first became aware of there  
22 being any concerns relating to McAlinden and children?  
23 A. When this Commission started.  
24  
25 Q. This Commission started late last year. Are you  
26 identifying it as recent as that period?  
27 A. I am identifying it then, yes.  
28  
29 Q. Did you become aware at any time earlier than that in  
30 terms of --  
31 A. I was not aware of that.  
32  
33 Q. You are not aware of having seen references in the  
34 media at any earlier time?  
35 A. Not - no, I haven't.  
36  
37 Q. The other priest that the Commission is concerned with  
38 is Father James Fletcher.  
39 A. Yes.  
40  
41 Q. Had you met Father James Fletcher from time to time?  
42 A. I met him at clergy conferences and clergy gatherings.  
43  
44 Q. Was he a friend of yours?  
45 A. No, not a friend of mine.  
46  
47 Q. When did you first become aware of there being any

1 concerns in relation to Fletcher and children?  
2 A. When charges were made publicly against him.  
3  
4 Q. You are identifying the period in 2003 when he was --  
5 A. That's right.  
6  
7 Q. In 2004 rather when he was --  
8 A. That's correct.  
9  
10 Q. In 2003 when he was charged by police?  
11 A. When the charges were on, that's when we became aware  
12 of it.  
13  
14 Q. And not at any earlier point in time?  
15 A. No.  
16  
17 Q. I want to ask you about some questions relating to  
18 [AH]. I think you have a pseudonym list in front of you.  
19 A. I do, yes.  
20  
21 Q. I think you're aware of the three individuals about  
22 which I might ask questions are [AH], [AH]'s mother [BI].  
23  
24 THE COMMISSIONER: [BJ].  
25  
26 MR KELL: Q. Sorry, [BJ] and [AH]'s father [BI]?  
27 A. I'm aware of those three.  
28  
29 Q. If you could bear those pseudonyms in mind in respect  
30 of any answer you give, that would be appreciated. I just  
31 want to ask you about the period in about the late 1990s.  
32 At that time, it was the case, was it, that you knew [AH]'s  
33 family?  
34 A. I may have - yes, I would have known [AH]'s family.  
35 I first met them when I was the parish priest at Glendale.  
36  
37 Q. That was obviously before you came to Nelson Bay?  
38 A. To Nelson Bay.  
39  
40 Q. So you had known the family for some years by then?  
41 A. I knew of the family. I met them once socially.  
42  
43 Q. And in the late 1990s you knew [BI]?  
44 A. Very well.  
45  
46 Q. That was from the professional association of the  
47 diocese?

1 A. That's right.  
2  
3 Q. Had you also had some involvement in assisting [AH] in  
4 terms of his coming to reside in the parish at Nelson Bay?  
5 A. We assisted getting the children of his partner into  
6 our parish school. It was at the request of his father who  
7 phoned me to see if that was possible.  
8  
9 Q. I'm going to ask you about an incident that occurred  
10 at some stage outside the presbytery at Nelson Bay.  
11 A. Yes.  
12  
13 Q. I think that's an incident where [AH] attended and  
14 called out certain things. You are nodding yes?  
15 A. Yes.  
16  
17 Q. I wonder if you could describe in general terms the  
18 incident, and I'll ask you some specific questions. If you  
19 could describe to the Commissioner generally what the  
20 incident involved?  
21 A. Yes. I was in my lounge room, which fronts on to  
22 Government Road, one evening watching television and  
23 I heard this noise and yelling from outside.  
24  
25 Q. Pausing there, what time in the evening was that?  
26 A. It would have been about 7.30, 8 o'clock.  
27  
28 Q. What time of the year, are you able to identify when  
29 it was?  
30 A. I can't. I think it was winter.  
31  
32 Q. At that time was it dark outside?  
33 A. It was dark.  
34  
35 Q. So you are inside the presbytery?  
36 A. I am.  
37  
38 Q. You've got the television on?  
39 A. I've got the television on.  
40  
41 Q. And you hear certain noises from outside?  
42 A. Yes.  
43  
44 Q. Are you able to identify the approximate date on which  
45 this was? What year was it?  
46 A. I thought it - well, I went to the bay at the end of  
47 1997, so it could have been 1998, 1999.



1  
2 Q. So you heard the sound from outside?  
3 A. I did.  
4  
5 Q. At that stage, I take it it was night time?  
6 A. It was night time.  
7  
8 Q. Doors were closed, were they?  
9 A. The glass doors were closed, yes.  
10  
11 Q. So could you make out what was being said outside?  
12 A. No, I just heard this yelling.  
13  
14 Q. You could heard yelling but you couldn't identify the  
15 particular words?  
16 A. No, not at all.  
17  
18 Q. You had the television on as well?  
19 A. I did.  
20  
21 Q. What did you do next?  
22 A. I went out to the balcony.  
23  
24 Q. That involved you opening a --  
25 A. Opening the doors and going out on to the balcony.  
26  
27 Q. What did you see?  
28 A. I saw [AH] across the road near the telegraph pole.  
29  
30 Q. When you say he was across the road, he was on the  
31 other side of the road --  
32 A. He would have been about 40, 50 metres away from me.  
33  
34 Q. Was he directly opposite --  
35 A. He was directly opposite.  
36  
37 Q. But on the other side of the road?  
38 A. On the other side of the road.  
39  
40 Q. So there was the presbytery?  
41 A. The presbytery.  
42  
43 Q. And you were on the balcony?  
44 A. Yes.  
45  
46 Q. Do we take it from that that you were one level up  
47 from the ground?

1 A. I was above the ground, yes, the second floor.  
2  
3 Q. Between the presbytery and the road is there a nature  
4 strip and a footpath?  
5 A. No, there is the driveway up to the garage to the  
6 presbytery, then there's an access road, then there's  
7 a drop brick wall or stone wall and then there's  
8 Government Road.  
9  
10 Q. What was the distance between your balcony and your  
11 side of the road?  
12 A. Forty to 50 metres.  
13  
14 Q. I think you indicated [AH] was on the other side of  
15 the road?  
16 A. He was.  
17  
18 Q. The distance between your balcony and the edge of the  
19 road on your side, the presbytery side?  
20 A. About 32, 33 metres.  
21  
22 Q. Was it a single-lane road?  
23 A. No, it's a double-lane road, Government Road.  
24  
25 Q. So there's a two-lane road, there is a lane of traffic  
26 going either side?  
27 A. That's right.  
28  
29 Q. AH was on the other side?  
30 A. He was.  
31  
32 Q. He was standing on the footpath on the other side?  
33 A. He was.  
34  
35 Q. But in a direct line with the presbytery?  
36 A. Yes, fairly direct.  
37  
38 Q. Could you see him clearly?  
39 A. I could see who it was, yes. There's lighting around  
40 that area.  
41  
42 Q. Did you immediately identify who it was?  
43 A. Yes, I did.  
44  
45 Q. In your own mind?  
46 A. In my own mind I did.  
47

1 Q. That's what you saw when you came to the balcony.  
2 What could you hear?  
3 A. I could hear him yelling and that and I couldn't make  
4 out, it's a bit incoherent so I asked him what was wrong.  
5  
6 Q. He was yelling out and he was yelling towards you?  
7 A. He was yelling towards me.  
8  
9 Q. Towards the presbytery building?  
10 A. Towards the presbytery.  
11  
12 Q. You're saying at that stage you couldn't make out what  
13 was being said?  
14 A. I couldn't make it out, it was incoherent.  
15  
16 Q. You indicated you asked what was wrong, did you?  
17 A. I said, "What's wrong?"  
18  
19 Q. When you said it, did you have to yell it out because  
20 he was on the other side of the street?  
21 A. I've got a fairly loud voice. He heard me and then he  
22 gave me some words.  
23  
24 Q. What did he say?  
25 A. "Nobody loves me, nobody loves me." He was clearly  
26 upset.  
27  
28 Q. When you say he was upset, could you see whether he  
29 was in tears?  
30 A. He had a beer bottle in his hand. He was, you know,  
31 clearly, in my opinion, intoxicated and he just kept on  
32 ranting and raving and they're the words I could distinctly  
33 hear.  
34  
35 Q. When you refer to him being intoxicated, in your view,  
36 did you form that view because of what he was calling out?  
37 A. Because he was swaying.  
38  
39 Q. He said to you, "Nobody loves me, nobody loves me"?  
40 A. Right.  
41  
42 Q. What else did he say?  
43 A. That's all I could hear - that's all I could get out  
44 of him, "Nobody loves me", or that I could understand him  
45 saying, "Nobody loves me."  
46  
47 Q. So you are still on the balcony?

1 A. Yes.  
2  
3 Q. You've called out to him?  
4 A. Yes.  
5  
6 Q. He said that to you?  
7 A. Yes.  
8  
9 Q. What did you do next?  
10 A. I told him - I said, "Of course people love you. You  
11 know your parents love you. You come from a good home.  
12 Your parents love you very much." Then again he responded,  
13 "Nobody loves me, nobody loves me." I said to him, "Look  
14 I'll get your parents for you. I'll go and ring your  
15 father."  
16  
17 Q. What was his response to that?  
18 A. Again he was just - "Nobody loves me, nobody loves  
19 me", and then that was it. He was clearly making a  
20 disturbance.  
21  
22 Q. So he was still there making a disturbance and he was  
23 yelling out certain things?  
24 A. That's right.  
25  
26 Q. Some you could hear; you could understand "Nobody  
27 loves me, nobody loves me"?  
28 A. Yes.  
29  
30 Q. That was being yelled out?  
31 A. It was being yelled out.  
32  
33 Q. He was making some other statements that you just  
34 couldn't --  
35 A. I couldn't understand.  
36  
37 Q. You couldn't understand at the time?  
38 A. No, I couldn't.  
39  
40 Q. What did you do next?  
41 A. I went inside and rang his father.  
42  
43 Q. He was still outside?  
44 A. He started to go off.  
45  
46 Q. This is before you went inside?  
47 A. Before I went inside, yes.

1  
2 Q. Did you ask [AH] whether to come inside with you?  
3 A. No, I did not.  
4  
5 Q. Why not?  
6 A. It just didn't occur to me to call him to come in -  
7 never been - you know, I just was more concerned -  
8 I suppose I was concerned that he would have been protected  
9 when he would have got home. That's the pastoral approach  
10 I would have taken. I came inside with the intentions of  
11 ringing his father straight away just to let him know what  
12 was happening.  
13  
14 Q. You indicated before you came inside that you saw him  
15 start to walk --  
16 A. He started to walk off.  
17  
18 Q. Which direction did he walk?  
19 A. I can't tell you that. I think down towards the  
20 police station but I could be wrong in that.  
21  
22 Q. Did you stay on the balcony for a while to see him  
23 walk away?  
24 A. No, I didn't.  
25  
26 Q. You just saw him take a few steps in a particular  
27 direction?  
28 A. Yes.  
29  
30 Q. At that stage you came back inside?  
31 A. I came back into the presbytery.  
32  
33 Q. At all stages when you saw [AH], did he have the  
34 bottle still --  
35 A. Always had the beer bottle in his hand. I can  
36 remember that distinctly.  
37  
38 Q. Can I ask whether you've got any recollection in  
39 respect of [AH] throwing anything at the presbytery? Was  
40 that something that happened --  
41 A. Didn't happen at all.  
42  
43 Q. It's not something that you saw?  
44 A. I'm sorry, I didn't see that happen.  
45  
46 Q. Did you later form any view that he may have thrown  
47 something at the presbytery?

1 A. I didn't see anything - no broken glass or anything.  
2 I didn't see anything like that at all.  
3  
4 Q. For example, the next morning you didn't see any  
5 broken glass?  
6 A. No, there wasn't any broken glass there.  
7  
8 Q. If there had been, is it something you would have had  
9 to clean up?  
10 A. It would have been something I would have had to clean  
11 up, yes, but it would have been a distance for him to have  
12 thrown it at the presbytery.  
13  
14 Q. From where you saw him?  
15 A. From where he was.  
16  
17 Q. During the time you were on the balcony?  
18 A. Yes.  
19  
20 Q. Just in terms of that period of time, you hear him  
21 call out, you open the glass door, you go out to the  
22 balcony, then you have some discussion with him, and then  
23 at a certain point in time you see him walk off down the  
24 road or take some steps. How long was the period of time  
25 from when you first went out on the balcony to when [AH]  
26 moved away?  
27 A. Ten minutes maximum.  
28  
29 Q. During that ten-minute period, you were talking to  
30 him. You are nodding yes?  
31 A. Sorry, yes.  
32  
33 Q. Were you trying to comfort him?  
34 A. Trying to get him calm I think. Yes.  
35  
36 Q. At certain times you said, "Your family loves you.  
37 You come from a great family"?  
38 A. I did.  
39  
40 Q. He continued to yell out words?  
41 A. He did.  
42  
43 Q. Your evidence is, is it, that in terms of what you can  
44 recall about him saying that the only thing you can recall  
45 at the moment is that he said, "Nobody loves me, nobody  
46 loves me"?  
47 A. They're the words I can distinctly remember.

1  
2 Q. But he certainly said other things during that period  
3 of time?  
4 A. He was incoherent, I think. I couldn't understand  
5 what he was saying.  
6  
7 Q. So you came inside. What did you do then?  
8 A. I went and got the phone book and looked up [BI]'s -  
9 I had an idea where they were living, I looked up that  
10 phone number and I rang.  
11  
12 Q. Did you speak to [BI]?  
13 A. I spoke to [BI].  
14  
15 Q. What did you say to [BI]?  
16 A. I said that his son had been outside the presbytery  
17 and I was quite concerned because I thought that he was,  
18 you know, inebriated. I was concerned for his safety. And  
19 then he said - he responded - do you want me to tell you  
20 what he responded?  
21  
22 Q. What did [BI] say?  
23 A. He said, "Bob, I've had a few glasses of red wine. If  
24 I can get somebody to come down, I'll come down", and he  
25 did.  
26  
27 Q. I think you indicated it was about 7.30, was it?  
28 A. Yes, my phone call would have been about 8 o'clock or  
29 something like that.  
30  
31 Q. It's about 8 o'clock in the evening?  
32 A. Yes.  
33  
34 Q. So [BI] said that he would make arrangements, did he,  
35 to come?  
36 A. He said he'd make arrangements to get somebody to  
37 drive him down, which he did.  
38  
39 Q. How long after did [BI] arrive?  
40 A. About three-quarters of an hour, an hour later.  
41  
42 Q. Did you speak to [BI] at the presbytery?  
43 A. I did, he came to the presbytery.  
44  
45 Q. What did you tell him?  
46 A. Exactly what happened, what I just related.  
47

1 Q. What did [BI] do at that point in time?  
2 A. Well, he had a cup of coffee and then he went off to  
3 find his son.  
4  
5 Q. I just want to ask you in terms of the things that  
6 [AH] was calling out outside the presbytery, whether you've  
7 got any recollection, and it may be that you don't from  
8 what you've said today, of [AH] calling out things to do  
9 with making comments about priests; do you have any  
10 recollection about that?  
11 A. I did not hear him use those words at all, no.  
12  
13 Q. Not that you can recall in terms of what you --  
14 A. He didn't use those words.  
15  
16 Q. You're sounding very definite about that?  
17 A. I can remember exactly - the only words I - that I can  
18 recall him saying were "Nobody loves me, nobody loves me."  
19  
20 Q. If it's suggested to you that part of what [AH] said  
21 outside the presbytery and which you heard at the time was  
22 that [AH] had been calling out about the filthy things that  
23 priests do to boys, what would you say to that suggestion?  
24 A. I would say I never heard those words at all.  
25  
26 Q. And you're pretty confident that that's the case, that  
27 you'd recall if you had?  
28 A. I'm fairly definite that I would recall that.  
29  
30 Q. You accept the possibility, do you, that [AH] may have  
31 called out those things but you didn't hear them?  
32 A. I can accept that possibility.  
33  
34 Q. For example, before you went to the balcony you heard  
35 sounds outside but you couldn't discern what was being  
36 said?  
37 A. That's true.  
38  
39 Q. So you accept the possibility of course that it may  
40 have been said at that point in time before you came out to  
41 the balcony?  
42 A. I accept the possibility but I also know I didn't hear  
43 them.  
44  
45 Q. And you accept the possibility that when you were on  
46 the balcony, among the words that you indicated to the  
47 Commissioner that you couldn't discern because of [AH]'s



1 intoxicated state, they might have --  
2 A. If they were directed --  
3  
4 Q. If you just pause there and wait for the question.  
5 That among the words that you may not have fully discerned,  
6 you accept the possibility that he may have said it at that  
7 point in time but you just didn't hear?  
8  
9 MR GYLES: I object. The problem with the question is  
10 "fully discerned".  
11  
12 THE COMMISSIONER: He didn't discern it at all.  
13  
14 MR GYLES: Exactly. Is it being said that he didn't hear  
15 it or did hear it? "Fully discerned" seems to suggests  
16 there is some part he may have heard.  
17  
18 THE COMMISSIONER: Yes. You know how to deal with that,  
19 Mr Kell.  
20  
21 MR KELL: Q. Father, do you accept the possibility that  
22 in the time that you were on the balcony, there were  
23 certain statements made by [AH] that you just didn't hear  
24 clearly what he said?  
25 A. I didn't - I couldn't make out what he was saying.  
26  
27 Q. You accept the possibility that among that part of the  
28 shouting from [AH] may have been words to that effect, that  
29 you just couldn't make out, that is to say a reference to  
30 filthy things that priests do to boys?  
31 A. I think I would have heard that clearly if that had  
32 been said.  
33  
34 Q. The events I'm asking you about occurred some 15 years  
35 ago; is that right?  
36 A. That's about the area, space, yes.  
37  
38 Q. This is late 1997.  
39 A. No, it would have been late 1998, 1999.  
40  
41 Q. At the time that these events occurred, you didn't  
42 take any notes?  
43 A. No, not at all.  
44  
45 Q. You didn't make any written report following that  
46 event for any purpose?  
47 A. No.

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Q. And you're not able to draw on any contemporaneous note from that time now to assist your recollection of events?

A. No.

Q. And you're just doing the best that you can, sitting here some 15 years later giving evidence about that event.

A. I am.

Q. I want to ask you about whether you're able to assist with any attendance shortly before the day at the presbytery. What I'm asking about is whether you are able to link in your mind any involvement that you may have had with [AH] in a social gathering prior to the presbytery incident?

A. [AH] came to the back of the presbytery prior to that to thank me for the children getting into the school.

Q. How long before the presbytery incident --

A. I can't give you an honest answer, but I would imagine a couple of weeks beforehand.

Q. I also want to ask you about whether you've got any recollection of attending a dinner or lunch at the Nelson Bay RSL where you may have met [AH]?

A. I didn't meet [AH] at the RSL at Nelson Bay. I didn't attend that club.

Q. Did you ever attend it for --

A. I went for church-related events, yes.

Q. Did you attend for meals or dinner at any time?

A. No, not as parish priest of Nelson Bay.

Q. Did you attend it at all at any time?

A. I would have; if we had a church-type function or dinners, I would have gone there. The RSL day and things like that.

Q. I'm not suggesting there's anything improper at all about it. That was when you were at Nelson Bay?

A. That was when I was at Nelson Bay.

Q. If it was suggested to you that shortly before the presbytery incident, you were having lunch at the RSL club when you met [AH] and had a brief discussion with him at

1 that time, what would you say to that suggestion?  
2 A. I'd say that didn't happen.  
3  
4 Q. If it was suggested that you may have made a comment  
5 that led to some connection with [AH] later attending at  
6 the presbytery, do we take it that you also --  
7 A. I'm aware of the alleged comment. I didn't make that  
8 comment.  
9  
10 Q. Have you ever sort of encountered [AH] at the RSL club  
11 on any of the functions that you have been there with the  
12 church or otherwise?  
13 A. No.  
14  
15 Q. You gave evidence that you spoke to [BI] on the night  
16 of the presbytery incident?  
17 A. That's true.  
18  
19 Q. And that he came --  
20 A. He did.  
21  
22 Q. -- and you had a discussion with him about [AH].  
23 A. Yes.  
24  
25 Q. Did you have any conversations with any other person  
26 that evening relating to the presbytery incident?  
27 A. Not at all.  
28  
29 Q. And particularly I want to ask whether you had any  
30 conversation with [BJ] that evening relating to the  
31 presbytery incident?  
32 A. I've had no conversation with [BJ].  
33  
34 Q. When you say you've had no conversation with [BJ] --  
35 A. Other than --  
36  
37 Q. Just wait for the question. Are you saying ever, that  
38 you've never had a conversation with [BJ]?  
39 A. I would have had a conversation with [BJ] when I was  
40 parish priest at Glendale when I was at a social gathering  
41 in Cardiff one evening when two families and myself and  
42 other priests were present.  
43  
44 Q. Glendale was before your attendance at Nelson Bay?  
45 A. Glendale was the parish I was in before Nelson Bay.  
46  
47 Q. Before your attachment to Nelson Bay?

1 A. Yes.  
2  
3 Q. Did you have other conversations after that with [BJ]?  
4 A. I had no conversation with [BJ].  
5  
6 Q. If it's suggested to you on the evening of the  
7 presbytery incident that you did have a conversation with  
8 [BJ], by phone, and that you'd indicated that "[AH] is over  
9 here and he's drunk and upset", what would you say to that  
10 suggestion?  
11 A. That conversation didn't take place.  
12  
13 Q. Again, I'm asking you about an incident that's  
14 15 years ago.  
15 A. That's correct.  
16  
17 Q. You accept, of course, that it would be natural for a  
18 mother to be concerned about a son in circumstances that  
19 you describe about the presbytery?  
20 A. I can accept that it is natural.  
21  
22 Q. And you'd telephoned [BI] --  
23 A. I telephoned [BI].  
24  
25 Q. --[AH]'s father, one of the parents?  
26 A. That's right.  
27  
28 Q. And, again, if it's suggested to you that in a  
29 conversation with [BJ] you had indicated that [AH] was  
30 angry and he's saying really weird stuff about priests and  
31 sex?  
32 A. But I didn't have a conversation with [BJ] and that  
33 wasn't said.  
34  
35 Q. I'm asking for your response to that, and your  
36 response is that you didn't have the conversation with  
37 [BJ]?  
38 A. That's correct.  
39  
40 Q. You provided a statement to police relating to the  
41 presbytery incident?  
42 A. I did.  
43  
44 Q. That was a number of years later?  
45 A. A few years later, yes.  
46  
47 Q. That was in 2003?

1 A. That's correct.  
2  
3 Q. Before I go to the police statement, after the  
4 presbytery incident, did you make any report about the  
5 matter to your bishop? Was that something that you would  
6 report to --  
7 A. I would have spoken to Bishop Michael Malone about it  
8 the next day, and that's it, mainly because his father - as  
9 the Commissioner is very much aware - was employed by the  
10 diocese. I would have told him what happened.  
11  
12 Q. When you say "I would have", do you recall now that  
13 you did?  
14 A. I did the next morning.  
15  
16 Q. That was an oral discussion you had?  
17 A. It was a phone conversation.  
18  
19 Q. What did you tell Bishop Michael?  
20 A. What happened.  
21  
22 Q. That is to say, [AH] had been outside?  
23 A. That's correct.  
24  
25 Q. Did Bishop Michael indicate to you what he would do  
26 with the report that you --  
27 A. Not at all. He just thanked me for letting him know.  
28  
29 Q. In 2003 you provided a statement to the New South  
30 Wales police in relation to the incident?  
31 A. Was it 2003 or 2004? Around that time, yes.  
32  
33 Q. That was in connection with the Fletcher matter  
34 generally, wasn't it?  
35 A. That's right.  
36  
37 Q. You were asked about this particular incident relating  
38 to the presbytery back in 1998, as you indicate - late  
39 1998?  
40 A. That's correct.  
41  
42 Q. I just want to ask about the process in which you came  
43 to be asked to provide a statement. Do you recall who  
44 asked you to provide a statement?  
45 A. I received a phone call from whom I believed at the  
46 time was Detective Fox asking me would I be prepared to  
47 give evidence in connection with the incident in 1998,

1 1999.  
2  
3 Q. Just pausing there you say you received a phone call  
4 from a person you believed to be Detective Fox?  
5 A. That's correct.  
6  
7 Q. Did the person identify themselves as Detective Fox?  
8 A. I can't give you an honest answer on that.  
9  
10 Q. That phone call was effectively out of the blue, was  
11 it, at the time?  
12 A. It came out of the blue.  
13  
14 Q. In 1998 there was the presbytery incident. This is  
15 some five years later?  
16 A. That's correct.  
17  
18 Q. You get a telephone call from a police officer?  
19 A. Yes.  
20  
21 Q. Where were you based in 2003? Were you still --  
22 A. I was still at Nelson Bay.  
23  
24 Q. You got a call at the presbytery number, did you?  
25 A. The presbytery, yes.  
26  
27 Q. What did the police officer say as best you can  
28 recall?  
29 A. He asked would I be prepared to give a statement in  
30 connection with the events that happened. I said yes.  
31  
32 Q. You believe it was Detective Fox, do you?  
33 A. I think it was Detective Fox, yes.  
34  
35 Q. Why do you believe it was Detective Fox?  
36 A. Because the name just was there and it's been in my  
37 mind.  
38  
39 Q. Did the police officer who phoned you indicate in any  
40 way where he had got information relating to the presbytery  
41 incident?  
42 A. No, not at all.  
43  
44 Q. Did the police officer outline to you the matters that  
45 he wanted you to address in a statement?  
46 A. No, he didn't. He asked me would I be prepared to be  
47 interviewed and he arranged a time and a place, which

1 I duly attended.  
2  
3 Q. You then attended to be interviewed?  
4 A. I went to the Nelson Bay police station and I was  
5 interviewed.  
6  
7 Q. What was the period of time between the phone call  
8 that you received from this police officer and the  
9 attendance at the police station at Nelson Bay?  
10 A. I believe it was three days.  
11  
12 Q. When you attended at the police station at Nelson Bay,  
13 did you meet with one or more police officers?  
14 A. I met with the local police who introduced me to the  
15 detective who interviewed me.  
16  
17 Q. When you say you met with the local police, does that  
18 mean that you went to the front counter?  
19 A. I went to the front counter, that's right, yes.  
20  
21 Q. You were then directed, were you, to a particular  
22 office --  
23 A. To a room where I gave my statement.  
24  
25 Q. You were directed to a room where you gave your  
26 statement?  
27 A. Yes.  
28  
29 Q. At that period of time, when you were in the room, did  
30 you speak to more than one police officer or was it one  
31 police officer?  
32 A. It was the one police officer, the detective and I -  
33 he spoke with me and then had the statement done and  
34 I signed it accordingly.  
35  
36 Q. Was there any period of time at the Nelson Bay police  
37 station where you spoke to more than one police officer at  
38 the same time about the matters to do with the presbytery?  
39 A. No, only with the detective.  
40  
41 Q. Who was the detective you spoke to --  
42 A. I thought it was Detective Fox, but I subsequently  
43 found out it was Detective Brown.  
44  
45 Q. Pausing there, when you say, "I thought it was  
46 Detective Fox", when did you think it was Detective Fox?  
47 A. When it was happening. Then I found out it wasn't.

1  
2 Q. Was that because - that's your recollection now, is  
3 it?  
4 A. That's my recollection now.  
5  
6 Q. Why did you think it was Detective Fox?  
7 A. I just thought it was a natural progression that the  
8 person that phoned me would have interviewed me.  
9  
10 Q. The person that interviewed you, presumably identified  
11 himself at the time that you met him?  
12 A. He would have yes.  
13  
14 Q. Do you recall now whether he identified himself?  
15 A. He did.  
16  
17 Q. How did he identify himself?  
18 A. That "I'm such and such" and shook my hand, and then  
19 we went and had the interview.  
20  
21 Q. Do you recall now whether he identified himself by a  
22 particular name and what that name was?  
23 A. I can't give you an honest answer on that, because,  
24 you know - I know it was Detective Brown, but, you know,  
25 I probably at the time still thought it was - I would have  
26 realised there and then if he said he was Detective Brown,  
27 that would have been fine with me.  
28  
29 Q. When you say you realise now it was Detective Brown,  
30 what do you base that on?  
31 A. The evidence that's coming out.  
32  
33 Q. When you refer to "the evidence that's coming out",  
34 what are you referring to?  
35 A. To what I heard only in the last couple of weeks.  
36 In my mind I thought it was Detective Fox, but, you know -  
37 and I am quite at peace about the fact that it was  
38 Detective Brown.  
39  
40 Q. I'll take you to your statement shortly. When you  
41 referred to the evidence coming out in the last couple of  
42 weeks, are you referring to the evidence before this  
43 inquiry?  
44 A. I am.  
45  
46 Q. Have you in fact been following the evidence before  
47 the inquiry?



1 A. I have not been following the evidence. I heard it on  
2 the radio, on the media.  
3  
4 Q. So you heard a media report that referred to the  
5 attendance at the Nelson Bay police station?  
6 A. By Detective Brown, that's true.  
7  
8 Q. Did that jog any memory in your mind?  
9 A. No, it didn't.  
10  
11 Q. You indicated that you were taken to a room and  
12 provided your statement.  
13 A. I did.  
14  
15 Q. Was that in the form of a questions being asked of  
16 you and --  
17 A. He asked me my recollections and he asked me  
18 questions. He asked me did I see a bottle being thrown,  
19 which I didn't, and he just asked me generally what  
20 happened.  
21  
22 Q. So the detective asked you whether there was a bottle  
23 thrown at the presbytery?  
24 A. He did ask me that.  
25  
26 Q. Did the detective also ask you about the things that  
27 you had heard being called out?  
28 A. He asked me what I had heard and I told him what I had  
29 heard.  
30  
31 Q. Did he ask you about the statement that I asked for  
32 your view on, as to whether there had been any reference to  
33 the filthy things that priests do to boys?  
34 A. No, he didn't ask me that at all.  
35  
36 Q. On your right there are some folders of material.  
37 There will be a volume identified as volume 5.  
38 A. Volume 5 of 7?  
39  
40 Q. Yes. If you jump to tab 385, you'll see I think that  
41 that is a police statement that you've provided.  
42 A. Yes, that's correct.  
43  
44 Q. It's a statement dated 19 May 2003 and that's your  
45 signature at the bottom of those --  
46 A. That's my signature, sir.  
47

1 Q. Is that the statement that you provided to police at  
2 the Nelson Bay police station in 2003?  
3 A. That's correct.  
4  
5 Q. Was this statement given to you to sign during the one  
6 visit that you attended at Nelson Bay?  
7 A. That's correct.  
8  
9 Q. There was a question and answer session and then a  
10 document prepared.  
11 A. That's right.  
12  
13 Q. By the police officer?  
14 A. By the police officer or the staff there.  
15  
16 Q. And then you reviewed it?  
17 A. And then I signed it.  
18  
19 Q. And you signed it and that's the document?  
20 A. That's the document.  
21  
22 Q. When you provided this statement to the police, you  
23 were intending to be truthful as to the events that you  
24 were recounting?  
25 A. Yes.  
26  
27 Q. You were intending to be accurate?  
28 A. Yes.  
29  
30 Q. And to not leave out any particular details that you  
31 regarded as significant?  
32 A. That's correct.  
33  
34 Q. In paragraphs 4 to 6 you refer to [AH] being outside  
35 the presbytery and you make reference to [AH], in  
36 paragraph 4, having called out "Nobody loves me, nobody  
37 loves me"?  
38 A. That's right.  
39  
40 Q. In paragraph 7, after a time, you say that [AH]  
41 "continued to yell out the same kind of things" and you  
42 indicated:  
43  
44 *I said to [AH], "If you don't leave I will*  
45 *have to call the police and your parents."*  
46  
47 A. That's right.

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Q. When you're referring to "the same kind of things", what was that a reference to?

A. "Nobody loves me, nobody loves me." That's all he just went on - he was - he was clearly upset and I was concerned about the neighbours at this stage.

Q. So "the same kind of things" is your shorthand for a reference to "Nobody loves me, nobody loves me"?

A. No.

Q. Not a slight variant on that?

A. No.

MR KELL: Commissioner, I tender that statement.

THE COMMISSIONER: The statement of Father Searle of 19 May 2003 will be admitted and marked exhibit 162.

**EXHIBIT #162 STATEMENT OF FATHER SEARLE OF 19/05/2003**

MR KELL: I tender the appointments list of Father Searle.

THE COMMISSIONER: The appointments list of Father Searle will be admitted and marked exhibit 163.

**EXHIBIT #163 APPOINTMENTS LIST OF FATHER SEARLE**

MR KELL: Q. You can close that up for the moment. In the period leading up to your signing this document, so three days before you signed the statement, you had a telephone call from a detective?

A. That's correct.

Q. Who you understand to be Detective Fox?

A. That's right.

Q. Three days later you went to Nelson Bay police station, you were interviewed and then you finalised and signed a statement to the police?

A. Yes.

Q. In that period of time, did you have any discussions with any other church officials in relation to --

A. The incident.

Q. -- the contents of what you were addressing?

1 A. The only --  
2  
3 Q. Just wait for the question. Did you have any  
4 discussions with any other church officials relating to the  
5 matters about which you were going to provide evidence to  
6 the police?  
7 A. No.  
8  
9 Q. You indicated a moment ago "the only thing that" --  
10  
11 THE COMMISSIONER: I think it was "the only person".  
12  
13 Q. Is that right, father?  
14 A. Thank you, Commissioner.  
15  
16 MR KELL: Q. Is that right?  
17 A. The person I would have spoken to about it other than  
18 Bishop Michael is Sister Paula Redgrove, who was my  
19 pastoral assistant.  
20  
21 Q. When you say, "The person that I would have spoken to  
22 about it", are you talking about events in 2003 when you  
23 were providing the statement or are you going back to late  
24 1998?  
25 A. No, 2003 I would have told her that I had been called  
26 to give evidence, because I would have spoken with her  
27 about the event the day after it happened in 1998.  
28  
29 Q. Is that because in both instances Sister Paula was --  
30 A. Sister Paula was still my pastoral associate.  
31  
32 Q. She was based at Nelson Bay?  
33 A. Yes.  
34  
35 Q. With the Sisters of Mercy?  
36 A. Sisters of Mercy.  
37  
38 MR KELL: That's the evidence-in-chief.  
39  
40 <EXAMINATION BY MR WILLIS:  
41  
42 MR WILLIS: Q. I'm not sure whether you still have in  
43 front of you the statement that is now exhibit 162, which  
44 was a statement that you made back on 19 May 2003. I can  
45 probably do this without asking you to drag it out. Have  
46 you seen that statement before today?  
47 A. I haven't seen it until today.

1  
2 Q. Between the time that you made it back in 2003 until  
3 it being shown to you in the witness box just a short time  
4 ago --  
5 A. I saw it prior to coming into the court today.  
6  
7 Q. Prior to coming into court today?  
8 A. Today.  
9  
10 Q. Did you have the opportunity of reading through it?  
11 A. I did.  
12  
13 Q. Father, you give your evidence today as if you have a  
14 very good recollection of what happened outside the  
15 presbytery in 1998; would you agree with that?  
16 A. I do.  
17  
18 Q. Do you have a good recollection of that?  
19 A. I do.  
20  
21 Q. And indeed the process that followed that, and you  
22 making a statement to the police in 2003, you have a good  
23 recollection of that as well?  
24 A. I do.  
25  
26 Q. I just want to take you through this sequence of  
27 events at the presbytery. As I understand it from your  
28 evidence, you say that you were inside the presbytery, your  
29 attention was drawn to an incident outside by what you  
30 heard; is that right?  
31 A. That's right.  
32  
33 Q. When you got up to investigate that, you saw [AH]  
34 across the road?  
35 A. I did.  
36  
37 Q. And he had been calling out things apparently prior to  
38 you going out on to the balcony; is that right?  
39 A. He was making noises prior to my going out on the  
40 balcony.  
41  
42 Q. You were unable to hear what that was?  
43 A. I wasn't able to hear.  
44  
45 Q. And all that you heard him say, on any occasion that  
46 he said something that you could hear, was words to the  
47 effect of "Nobody loves me"?

1 A. That's correct.  
2  
3 Q. You knew [AH] of course, didn't you?  
4 A. I had met [AH], yes.  
5  
6 Q. Indeed, you told him, so you've told the Commission,  
7 that, of course, people loved him, he had a wonderful  
8 family and things of that nature; is that right?  
9 A. I did.  
10  
11 Q. Did it seem to you to be odd that he would have been  
12 calling out that type of thing, "Nobody loves me" to the  
13 church presbytery?  
14 A. I made no judgment on what he was saying. I just  
15 heard him and I told you what my response was. I did not  
16 think it was odd.  
17  
18 Q. I beg your pardon?  
19 A. As he was inebriated, I did not think it was odd.  
20  
21 Q. As I understand it, you say that you spoke to [AH],  
22 told him that you would go inside and you would call the  
23 police and his parents; is that right?  
24 A. That's correct.  
25  
26 Q. He started to wander off down the road?  
27 A. He did.  
28  
29 Q. You went inside and you called --  
30 A. His father.  
31  
32 Q. -- his father and you've told us about the  
33 conversation that you had with him. Did you tell [BI],  
34 that is, [AH]'s father, anything about what had happened at  
35 the presbytery?  
36 A. I relayed to [BI] what had happened. That's why  
37 I called him.  
38  
39 Q. In particular what you had heard [AH] say?  
40 A. I did.  
41  
42 Q. Is all that you relayed to [BI] about what [AH] had  
43 said simply that he was saying, "Nobody loves me, nobody  
44 loves me"?  
45 A. That's true, and I would have told [BI] that I told  
46 him that he loved him.  
47

1 Q. While you were having that conversation on the phone  
2 with [BI], was [AH] still out the front?  
3 A. I don't think he was. I'm not aware of it.  
4  
5 Q. You couldn't still hear him --  
6 A. I saw [BI] [sic] walk off before I went back inside  
7 the presbytery.  
8  
9 Q. You saw [AH] walk off?  
10 A. I'm sorry, [AH] walk off, yes.  
11  
12 Q. He wasn't still out the front while you were on the  
13 phone with [BI]?  
14 A. It's possible he could have been, but I didn't see  
15 him.  
16  
17 Q. And you couldn't hear him?  
18 A. Couldn't hear him.  
19  
20 Q. You said that [BI] arrived about three-quarters --  
21 A. About an hour later, three-quarters of an hour later.  
22  
23 Q. Obviously [AH] wasn't out the front of the presbytery  
24 then?  
25 A. He wasn't out the front at all.  
26  
27 Q. Between the time that you saw him walk off in the  
28 direction apparently of the police station and the time  
29 that [BI] arrived, did you hear [AH] out the front at all?  
30 A. Not after he'd gone.  
31  
32 Q. Do you say that on that night you never spoke to [BJ],  
33 who was [AH]'s mother, on the telephone --  
34 A. No, I didn't have any conversation with [BJ] at all.  
35  
36 Q. Did you relate to either [BI] or [BJ] at any stage  
37 that what [AH] had been saying out the front of the  
38 presbytery was words to the effect that he had been saying  
39 really weird stuff about priests and sex?  
40 A. No, that was never said.  
41  
42 Q. But did you ever say that to --  
43 A. I've never said that.  
44  
45 Q. You've never said that. That's not something that you  
46 heard [AH] say?  
47 A. I didn't hear [AH] say that.

1  
2 Q. But of course back in 1998, you had no idea what was  
3 behind [AH]'s behaviour.  
4 A. None at all, sir.  
5  
6 Q. And then nothing further happened in terms of that  
7 incident until May 2003 when you were contacted by a police  
8 officer, who you believed to be Mr Fox?  
9 A. That's true, nothing else happened.  
10  
11 Q. And that phone call you said just came out of the  
12 blue?  
13 A. It came out of the blue.  
14  
15 Q. Did Mr Fox - assuming that it was Mr Fox - say to you  
16 in that conversation, or rather, did he ask you what you  
17 could say about the incident at the presbytery in 1998?  
18 A. My recollection is that he personally phoned me and  
19 asked me would I be prepared to be interviewed and give a  
20 statement about the events of that evening in 1998/1999 and  
21 I indicated I would, and that was it.  
22  
23 Q. But did he do that without asking you on the phone  
24 what you might say about it?  
25 A. He didn't ask me on the phone what I might say.  
26  
27 Q. So he didn't identify either what you could say or  
28 whether you could say anything about it, but he simply  
29 asked you if you would be agreeable to coming down and give  
30 a --  
31 A. He asked me did an incident happen, to which I replied  
32 yes, and would I be prepared to give a statement about it.  
33  
34 Q. So he asked you did the incident happen?  
35 A. He did ask me that, yes.  
36  
37 Q. Did he ask you, or did he suggest to you what incident  
38 it was that happened?  
39 A. No.  
40  
41 Q. He must have said something?  
42 A. He would have asked me and I told him that a person  
43 had been outside the - across the road, but there was no  
44 substance to the conversation about the content because  
45 that was given - because he asked me would I be interviewed  
46 and I agreed readily to it.  
47



1 Q. But there was certainly enough said in the  
2 conversation for you to identify what it was that --  
3 A. Yes.  
4  
5 Q. -- the police wanted to talk to you about?  
6 A. Definitely.  
7  
8 Q. Did you, in your conversation with that officer, and  
9 again if you assume it was Mr Fox, tell him that [AH] was  
10 talking about filthy things that priests do to children?  
11 A. It's not my language and, no, I didn't say that at  
12 all.  
13  
14 Q. And you've never suggested that to anyone?  
15 A. I've never suggested that to anyone.  
16  
17 Q. That was not anything you ever heard [AH] say out the  
18 front of the presbytery?  
19 A. I never heard [AH] say that at all.  
20  
21 Q. You were asked by Mr Kell about when you first  
22 learned that there was some issue in relation to then  
23 Father Fletcher and children, and I think you said that it  
24 was about the same time that you were contacted for the  
25 purposes of the statement, was it?  
26 A. No. We heard about it through the media when he was  
27 charged.  
28  
29 Q. When he was charged?  
30 A. That's right.  
31  
32 Q. Wasn't that about the same time as the --  
33 A. I can't give an honest answer. I don't know that  
34 date, sir.  
35  
36 Q. You don't know that date. You were also asked about  
37 an occasion at the Nelson Bay RSL club about seeing [AH]  
38 there and about having a conversation with him. Do you  
39 recall that?  
40 A. I don't recall that at all.  
41  
42 Q. You recall being asked that question?  
43 A. I'm sorry, yes, I recall being asked that, yes.  
44  
45 Q. But you say that didn't happen?  
46 A. To the best of my knowledge, that did not happen.  
47

1 Q. You mentioned a comment. It's not necessary for us to  
2 go into what the comment was, but you mentioned a comment  
3 that apparently has been attributed to you having been made  
4 to [AH], but you say there was no such comment made by you;  
5 is that right?  
6 A. It's not my language and it wasn't made by me.  
7  
8 Q. Father, do you recall having a concern at one time  
9 that the allegation that had been made or complaint that  
10 had been made by [AH] may have involved yourself - that you  
11 may have been the subject of a complaint?  
12 A. No, not at all.  
13  
14 Q. Did you ever have a concern about --  
15 A. No, I've never had a concern about that.  
16  
17 Q. Do you recall having a conversation on the telephone  
18 with Mr Fox to that effect where you expressed that concern  
19 to him?  
20 A. No, I have no recollection of that at all.  
21  
22 Q. And he assured you that there was no such complaint  
23 about your behaviour and that you need not concern  
24 yourself?  
25 A. I haven't heard that conversation, sir.  
26  
27 Q. So you say that just didn't take place, either?  
28 A. It didn't take place, either, and that I would have  
29 remembered.  
30  
31 Q. I would expect so. Just going back to that statement,  
32 Father Searle, and the making of the statement, do you  
33 recall you were contacted on the telephone and an  
34 appointment was made, I think you said, for you to go in  
35 and make the statement, or be interviewed; is that right?  
36 A. That's right.  
37  
38 Q. Do you recall that there was some cancellation or  
39 postponement of that happening for a short period of time?  
40 A. No, I have no recollection of that.  
41  
42 Q. So far as your recollection is concerned, you went to  
43 the police station on the appointed day and you made your  
44 statement; is that right?  
45 A. That's correct.  
46  
47 Q. I think we now understand, because you do, too, that

1 it was in fact a Detective Brown who took your statement  
2 from you.  
3 A. I now understand that.  
4  
5 Q. But you knew on the day that you weren't dealing with  
6 Mr Fox, didn't you?  
7 A. Only when - I thought it was Mr Fox, but then the  
8 gentleman would have identified himself as he shook hands  
9 with me, I'm sure.  
10  
11 Q. Do you recall speaking to Detective Fox at all about  
12 the detail of what might be expected in your statement --  
13 A. No.  
14  
15 Q. Let me finish, please - prior to you actually going  
16 through that process with Detective Brown?  
17 A. No.  
18  
19 Q. Before Detective Brown sat you down in a room and  
20 started to ask you questions and record information that  
21 you were giving to him, no police officer had asked you  
22 what you might say about the incident at the presbytery in  
23 1998; is that what you're saying?  
24 A. No police officer asked me that.  
25  
26 Q. Pardon me for a moment. Can I just take you back to  
27 the presbytery in 1998. You went out to the balcony and  
28 you saw [AH] across the road and clearly he was upset. Did  
29 you not think that perhaps it might have been an exercise  
30 of appropriate pastoral care to bring him into the  
31 presbytery?  
32 A. No. Clearly he was intoxicated. I learned with my  
33 conversation to him that he was upset.  
34  
35 Q. Did [AH] appear to you - he was upset, you've  
36 described and I've repeated that to you, but did he appear  
37 to be angry?  
38 A. No.  
39  
40 Q. Angry at the world?  
41 A. No.  
42  
43 Q. What was it about [AH]'s behaviour then, outside the  
44 presbytery, that you thought called for the intervention of  
45 the police?  
46 A. In connection with the police, I just wanted him to  
47 move on. That's what I said - I said, "You know, I'll call

1 your parents and call the police. You'll have to move on."  
2  
3 Q. But he was not - on what --  
4 A. He was on the main road and it's a very, very busy  
5 road and I was quite concerned for his safety on that main  
6 road.  
7  
8 Q. But not concerned enough apparently to invite him into  
9 the presbytery?  
10 A. No, I wasn't concerned enough to go and invite him in.  
11  
12 Q. From what you say, he was across the road and all he  
13 was yelling out was "Nobody loves me"?  
14 A. All I can hear from him and detect what he was saying  
15 was "Nobody loves me."  
16  
17 Q. And from what you heard, there was no unseemly  
18 language?  
19 A. I didn't hear him use any unseemly language at all.  
20  
21 Q. There was no bottle thrown?  
22 A. A bottle was not thrown in my presence.  
23  
24 Q. But, again, why did you think that, from what you've  
25 told us, it called for the intervention of the police, for  
26 him to be moved along?  
27 A. Mainly because I didn't want the neighbours being  
28 disturbed by the whole event.  
29  
30 Q. Father, if [AH] had been saying - I appreciate that  
31 you never heard anything at the time, but if you had heard  
32 [AH] yelling out across the road, apparently directed at  
33 the church presbytery, that priests do weird sexual things  
34 to children, that would be something that you would find to  
35 be, firstly, distasteful?  
36 A. Yes.  
37  
38 Q. Offensive?  
39 A. Yes.  
40  
41 Q. Potentially damaging to the church?  
42 A. I would have reported that straight away if that had  
43 been said.  
44  
45 Q. To whom?  
46 A. To the police, and to my authorities.  
47

1 Q. Father, when you made your statement on 19 May 2003,  
2 did you deliberately hold back some information from the  
3 police because you thought it was either distasteful or  
4 potentially damaging to the church?

5 A. Not at all.

6

7 MR WILLIS: Nothing further, thank you.

8

9 THE COMMISSIONER: Mr Gyles?

10

11 <EXAMINATION BY MR GYLES:

12

13 MR GYLES: Q. You said you had a conversation with [BI]  
14 which predated the presbytery incident in which he asked  
15 you to arrange for the children of [AH]'s partner to be  
16 enrolled in the local school.

17 A. That's right.

18

19 Q. Do you recall during that conversation [BI] saying  
20 anything to you about how [AH] was travelling at that time?

21 A. Yes.

22

23 Q. What did he say to you about that?

24 A. He said that he had had a rough time, that he had a  
25 drinking problem, that he was overcoming it.

26

27 Q. My learned friend Mr Willis asked you some questions  
28 on a hypothetical assumption as to whether if you had heard  
29 [AH] saying things about priests and sexual matters  
30 concerning children, it would have caused you certain  
31 concerns. Can we take it that, had that been said, that is  
32 something you would be very confident you would remember?

33 A. I would remember very much so, sir.

34

35 Q. So far as your dealings with Detective Fox and  
36 Detective Brown were concerned, is it the position that you  
37 were happy to give a statement to the police in connection  
38 with the Fletcher prosecution when you were asked to do so?

39 A. Certainly.

40

41 Q. That you cooperated fully with Detective Brown in the  
42 process of giving the statement?

43 A. That's true.

44

45 Q. That you were honest and open with him in relation to  
46 your description of events concerning the night at the  
47 presbytery with [AH]?

1 A. That's correct.  
2  
3 Q. And that you didn't hold any information back from  
4 him?  
5 A. I didn't.  
6  
7 Q. Father, have you ever knowingly or intentionally  
8 hindered or failed to assist in or cooperate with any  
9 police investigation of matters involving the sexual abuse  
10 of children, including those relating to McAlinden or  
11 Fletcher, or colluded with others to do so?  
12 A. No, not at all.  
13  
14 MR GYLES: I have no further questions.  
15  
16 THE COMMISSIONER: Thank you, Mr Gyles. Mr Lewis?  
17  
18 MR LEWIS: No questions.  
19  
20 MR KELL: No re-examination. Could the witness be  
21 excused.  
22  
23 THE COMMISSIONER: Thank you for your evidence,  
24 Father Searle. You are excused.  
25  
26 **<THE WITNESS WITHDREW**  
27  
28 MR KELL: Would that be a convenient time to take morning  
29 tea.  
30  
31 THE COMMISSIONER: We will adjourn for 20 minutes.  
32  
33 **SHORT ADJOURNMENT**  
34  
35 MR KELL: Commissioner, I recall Father William Burston.  
36  
37 **<WILLIAM JOHN BURSTON, sworn [11.59am]**  
38  
39 MR KELL: Commissioner, when Father Burston's evidence was  
40 suspended on the last occasion, I think Mr Gyles was in the  
41 process of nearing completion of some questions he had and  
42 other persons had asked questions of Father Burston.  
43 I have three matters that I want to raise with Father  
44 Burston and I'll do that conveniently now rather than wait.  
45  
46 THE COMMISSIONER: Very well. That makes sense, doesn't  
47 it, Mr Gyles?

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47

MR GYLES: Yes, I am content with that. Can I reinstitute the section 23 protection?

THE COMMISSIONER: Thank you, Mr Gyles.

<EXAMINATION BY MR KELL:

MR KELL: Q. Father, you gave evidence across three days the week before last?

A. Yes.

Q. It was from Wednesday to Friday?

A. Yes.

Q. And you took an oath to give truthful evidence during that time?

A. Yes.

Q. You were in court on Friday when your counsel raised a question or a suggestion that certain events that occurred outside of court may have impacted on your memory or your ability to give evidence to the inquiry.

MR GYLES: I'm not sure - so far as what I said was I asked him whether that caused him stress prior to giving evidence.

MR KELL: Yes.

MR GYLES: And something that had rattled him to some extent.

THE COMMISSIONER: Yes, thank you, Mr Gyles. That is the extent of it, then Mr Kell, so far.

MR KELL: I've got in mind that it was suggested at page 1377 of the transcript that the stress caused by outside events may have affected, to his mind, his memory in giving his evidence. That issue having been flagged in some way, I wanted to explore that with Father Burston insofar as it impacts on the processes of the inquiry.

THE COMMISSIONER: Thank you, Mr Kell.

MR KELL: Q. Father, the events that took place outside court were obviously unfortunate and they involved, did

1 they, two incidents on Wednesday where you were approached  
2 by certain members of the public outside this courtroom.  
3 A. Yes.  
4  
5 Q. And that caused you some stress?  
6 A. Yes.  
7  
8 Q. On Friday of that week the Commissioner adjourned your  
9 evidence until today.  
10 A. Yes.  
11  
12 Q. So it has been over a week since those events that  
13 took place outside court - well over a week?  
14 A. Yes.  
15  
16 Q. Do you regard those events that occurred outside of  
17 court as being stressful?  
18 A. Yes.  
19  
20 Q. Do you regard them as having impacted in any way on  
21 your ability to give truthful evidence to the inquiry  
22 during the time that you gave evidence from Wednesday to  
23 Friday?  
24 A. I don't think so, no.  
25  
26 Q. Do we take it from that that you don't regard it as  
27 having impacted on your ability to remember things that  
28 occurred in the past?  
29 A. That is correct, yes.  
30  
31 Q. The second matter I wanted to ask you about,  
32 Father Searle, was to do with Sister Paula Redgrove, so  
33 moving completely away from the events that took place a  
34 week or so ago --  
35 A. Right.  
36  
37 Q. You know Sister Paula Redgrove?  
38 A. I do.  
39  
40 Q. She's a member of the Sisters of Mercy?  
41 A. Yes.  
42  
43 Q. Is it the case you've been friends with Sister Paula  
44 for more than 40 years?  
45 A. Yes.  
46  
47 Q. You've always regarded her highly?



1 A. Yes.  
2  
3 Q. Have you had dealings with her in a pastoral and  
4 collaborative sense when you were involved at Centacare?  
5 A. Maybe pastoral and collaborative are putting it a bit  
6 strongly, but certainly I had dealings with her, yes.  
7  
8 Q. Have there been other occasions on which Sister Paula  
9 as a Sister of Mercy has raised matters of pastoral concern  
10 relating to a parishioner with you as the priest?  
11 A. I can't recall immediate instances, but it's more than  
12 likely to have happened, yes.  
13  
14 Q. That's something that's more than likely to have  
15 happened on various occasions over the many years in which  
16 you knew Sister Paula?  
17 A. Yes.  
18  
19 Q. You'll see in front of you there's a list of  
20 pseudonyms.  
21 A. Yes.  
22  
23 Q. I want to ask you, also - you know, do you, who [AL]  
24 is, if you could just look at the pseudonym [AL]?  
25 A. Yes.  
26  
27 Q. [AL] is someone that you've known, have you, for many  
28 years?  
29 A. I have not known her personally, no.  
30  
31 Q. But you've known [AL]'s family for --  
32 A. I've known about them. I haven't known them directly.  
33  
34 Q. At some point in time, is it the case you became  
35 aware - and we'll go to the point in time later - that  
36 [AL] identified herself as being a victim of McAlinden?  
37 A. Yes.  
38  
39 Q. Was that information that you obtained from Sister  
40 Paula?  
41 A. Yes.  
42  
43 Q. Are you able to identify for the Commissioner when it  
44 was that you obtained information from Sister Paula that  
45 [AL] was a victim of McAlinden?  
46 A. I can't give the precise time. It would have been  
47 certainly before 1996, but I'm not sure when before that.

1  
2 Q. And you identify 1996 as being the time at which you  
3 became vicar general?  
4 A. Yes.  
5  
6 Q. So the conversation that you had with Sister Paula was  
7 before then?  
8 A. Yes.  
9  
10 Q. If it was suggested to you that the conversation that  
11 you had with Sister Paula might have been at about 1993,  
12 would that be something that you wouldn't be able to  
13 reject?  
14 A. I would not be able to reject it, no.  
15  
16 Q. Similarly, you would accept that it's possible that  
17 the conversation with Sister Paula was in 1993 to 1994 - in  
18 that period of time?  
19 A. Yes, I can accept that.  
20  
21 Q. Are you able to tell the Commissioner any of the  
22 details of the conversation that you had with Sister Paula?  
23 A. I can't be very - terribly precise about it, but --  
24  
25 Q. Doing the best you can and without sort of holding you  
26 to the particular form of words in an "I said/He said"  
27 basis, what are you able to recall about the conversation?  
28 A. That [AL] had stated that McAlinden had sexually  
29 abused her and that she had confided that information to  
30 Sister Paula and that, if I recall, there was a very strong  
31 refusal to take it to the police.  
32  
33 Q. When you say "as I recall", is that something you  
34 recall being conveyed to you by Sister Paula?  
35 A. Yes.  
36  
37 Q. Or you learning from some other source?  
38 A. No, Sister Paula's conversation - well, information  
39 I got from her at that time. As I said, I can't remember  
40 "I said/She said."  
41  
42 Q. The conversation that you had with Sister Paula, do  
43 you recall whether that was in person?  
44 A. No, I'm sorry, I can't, no.  
45  
46 Q. Or whether, for example, it might have been on the  
47 phone?

1 A. I can't recall that detail now.  
2  
3 Q. Do you recall whether it was only the two of you  
4 involved in the conversation at that time?  
5 A. As far as I know, but I can't recall precisely.  
6  
7 Q. When Sister Paula told you this information, what did  
8 you say to Sister Paula?  
9 A. Again, details don't come back --  
10  
11 Q. Doing the best that you can now, looking back on those  
12 events.  
13 A. To advise her to take it to the authorities in the  
14 church, because there was that strong reluctance to take it  
15 to the police.  
16  
17 Q. That's what you told her?  
18 A. It's the sort of information I would have told her,  
19 yes. I can't recall precise detail of it.  
20  
21 Q. At the moment you don't recall in fact what you said  
22 to Sister Paula when you received that information?  
23 A. No, I don't recall it now, no.  
24  
25 Q. Doing the best that you can now, you think it is  
26 likely you would have said certain things to her?  
27 A. Yes.  
28  
29 Q. Is it your evidence that you believe you would have  
30 said to her that she should take it to certain authorities  
31 within the church?  
32 A. Yes.  
33  
34 Q. What's your reference to "certain authorities"?  
35 A. To the vicar general or the to the bishop.  
36  
37 Q. Who as at 1993/1993 was the vicar general?  
38 A. Monsignor Allan Hart.  
39  
40 Q. The bishop at that time was Bishop Leo Clarke  
41 A. Yes.  
42  
43 Q. Did you see it as your role to convey that information  
44 to either of those two persons?  
45 A. No, I did not.  
46  
47 Q. Do you recall whether you did take steps to notify

1 either Monsignor Hart or Bishop Clarke?  
2 A. I can't recall. I don't think I did, but I can't  
3 recall.  
4  
5 Q. But, again, you can't exclude the possibility that you  
6 may have done so?  
7 A. I can't exclude the possibility, no.  
8  
9 Q. Do you recall any further discussions that you had  
10 with Sister Paula about the topic of McAlinden and [AL]?  
11 A. I don't immediately, no. I don't, I'm sorry.  
12  
13 Q. Are you aware as to whether Sister Paula did take  
14 further steps, to your knowledge, following what you had  
15 told her?  
16 A. I'm not aware - I'm not - I can't recall immediately  
17 and I don't think I'm aware of that, but I'm not sure.  
18  
19 Q. Can I ask whether you became aware in about 1993 that  
20 Sister Paula had gone with [AL] to meet any other church  
21 officials? Is that something that you became aware of at  
22 about that time?  
23 A. I don't think so. I'm not sure, no.  
24  
25 Q. Is it something that you became aware of at a later  
26 point in time?  
27 A. I'm not sure of that. Sorry, I can't recall that.  
28  
29 Q. I might just ask you about another topic. Have you  
30 got volume 4 of the materials handy? You were asked some  
31 questions on the week before last about communications that  
32 you had with Mr Davoren?  
33 A. Yes.  
34  
35 Q. And you were aware in 1999 that Mr Davoren was the  
36 head of the Professional Standards Office?  
37 A. Yes.  
38  
39 Q. Of the Catholic Church?  
40 A. Yes.  
41  
42 Q. And he was the director?  
43 A. I'm not sure. I'm unsure of the title.  
44  
45 Q. Sorry, I withdraw that. He was the manager of the  
46 Professional Standards Office?  
47 A. Whatever the title. I'm not sure.

1  
2 Q. In August 1999 you wrote to John Davoren --  
3 A. Yes.  
4  
5 Q. -- at Professional Standards Office and I just ask you  
6 to turn to tab 308.  
7 A. Yes.  
8  
9 Q. That's a letter in response that you received from  
10 Mr Davoren?  
11 A. Yes.  
12  
13 Q. And that's a letter from Mr Davoren at the  
14 Professional Standards Office?  
15 A. Yes.  
16  
17 Q. In Sydney, addressed to you?  
18 A. Yes.  
19  
20 Q. Then you subsequently had discussions with Mr Davoren?  
21 A. I don't recall discussions.  
22  
23 Q. The letter that you sent to Mr Davoren was dated  
24 10 August 1999. I just want you to go to that, which is  
25 at tab 304. You'll see that's your letter addressed to  
26 John Davoren.  
27 A. Yes.  
28  
29 Q. That's the letter to which you received a response  
30 from the Professional Standards Office on 24 August 1999.  
31 A. Yes.  
32  
33 Q. The letter at tab 304 you've addressed to John Davoren  
34 and you've included the Pitt Street address but you've put  
35 in there Professional Standards Resource Group; do you see  
36 that?  
37 A. Yes.  
38  
39 Q. It was your intention, wasn't it, consistent with the  
40 response you received, to communicate with the Professional  
41 Standards Office?  
42 A. Yes.  
43  
44 Q. And the letter that you received from Mr Davoren at  
45 tab 308 was consistent with that?  
46 A. Yes.  
47

1 MR KELL: Thank you, Commissioner.  
2  
3 THE COMMISSIONER: Anything arising?  
4  
5 MS GERACE: May I ask a few questions following on  
6 something raised by Mr Kell?  
7  
8 THE COMMISSIONER: Does that suit you, Mr Gyles. Are you  
9 in the middle of something?  
10  
11 MR GYLES: I'm concerned Ms Gerace has had her go. There  
12 is one specific topic that has been dealt with. If it's  
13 related to that topic, I can understand there might be some  
14 right to ask further questions.  
15  
16 MS GERACE: I thought I made it clear. I wanted to ask a  
17 question about a matter raised by Mr Kell.  
18  
19 MR KELL: Could I tender the document at tab 308, which is  
20 the letter from the Professional Standards Office.  
21  
22 THE COMMISSIONER: The letter at tab 308 from Mr Davoren  
23 of the Professional Standards Office to Father Burston of  
24 24 August 1999 will be admitted and marked exhibit 164.  
25  
26 **EXHIBIT #164 LETTER FROM MR DAVOREN OF THE PROFESSIONAL**  
27 **STANDARDS OFFICE TO FATHER BURSTON OF 24/08/1999 (TAB 308)**  
28  
29 THE COMMISSIONER: I will ask Ms Gerace and Mr Baran  
30 whether they have any questions.  
31  
32 MR BARAN: I have no questions yet, depending on what  
33 Ms Gerace asks.  
34  
35 **<EXAMINATION BY MS GERACE:**  
36  
37 MS GERACE: Q. Father, in terms of the evidence you were  
38 giving about a conversation with Sister Paula, whenever  
39 that conversation took place, did you know generally of  
40 the existence of [AL] prior to your conversation with  
41 Sister Paula?  
42 A. What do you mean "generally"?  
43  
44 Q. Did you know her name?  
45 A. I don't think so, no.  
46  
47 Q. In terms of the conversation you had with

1 Sister Paula, are you able to recall the words that  
2 Sister Paula told you during that conversation?

3 A. No.  
4

5 Q. Are you able to assist in letting us know whether  
6 your evidence is that Sister Paula told you that a  
7 person had confided in her that she had been abused by  
8 Father McAlinden without identifying the person's name, or  
9 do you recall her telling you the name of the person?

10 A. I'm sorry, I can't - I can't recall which of those was  
11 true. I can't recall that..  
12

13 MS GERACE: No further questions.  
14

15 THE COMMISSIONER: Thank you, Ms Gerace. Mr Gyles?  
16

17 <EXAMINATION BY MR GYLES:  
18

19 MR GYLES: Q. Father Burston, you were asked some  
20 questions about a conversation with Sister Redgrove this  
21 morning; do you recall those questions?

22 A. Yes.  
23

24 Q. You've said that you don't take issue with the  
25 proposition that that conversation may have taken place in  
26 1993 or 1994.

27 A. Correct.  
28

29 Q. Or perhaps even 1992?

30 A. I don't know. I'm not sure.  
31

32 Q. But certainly your recollection is that it was before  
33 the time that you were vicar general?

34 A. Certainly.  
35

36 Q. And the time that you were at Centacare?

37 A. During the time that I was at Centacare, yes.  
38

39 Q. And that Sister Paula is a friend of yours?

40 A. Yes.  
41

42 Q. Is it the case that being asked about that particular  
43 conversation has, since you gave evidence last week, jogged  
44 your memory about that conversation and enabled you to  
45 recall it, at least to some extent?

46 A. Yes.  
47

1 Q. It wasn't something that you had directed your mind to  
2 before you were asked about it in the last few days in  
3 terms of that conversation; is that correct?

4 A. Yes.

5

6 Q. You told both Ms Gerace and Mr Kell that you don't  
7 recall the specifics of the conversation, but you have said  
8 that you recall that Sister Redgrove had communicated to  
9 you a reluctance or even strong reluctance on the part of  
10 [AL] to take the complaint as to sexual abuse by McAlinden  
11 to the police?

12 A. Yes.

13

14 Q. Do you have any recollection, again not necessarily  
15 drawing on words "I said/She said", do you have a  
16 recollection as to any explanation given to you by  
17 Sister Redgrove as to why that was, in other words, why  
18 there was a reluctance or strong reluctance on the part of  
19 [AL] to take the complaint to the police?

20 A. Yes, I do. Yes, I think so.

21

22 Q. Was it because of a concern expressed to you by  
23 Sister Redgrove that [AL] did not want her mother to find  
24 out about that allegation being made?

25 A. Yes, it was.

26

27 Q. You've said, I think reconstructing, that had  
28 this conversation taken place, that you would have told  
29 Sister Redgrove that if [AL] wanted to have that matter  
30 dealt with, she should pass that on to the appropriate  
31 church official?

32 A. Yes.

33

34 Q. Which would either have been the vicar general or the  
35 bishop?

36 A. Yes.

37

38 Q. You have no recollection of that happening one way or  
39 the other?

40 A. I don't have an immediate - no.

41

42 Q. Can I put another hypothetical to you. If you had  
43 said that to Sister Redgrove and she had said, "Look,  
44 I don't want to do that myself. Are you able to contact  
45 them for me?", can we take it that that is something that  
46 you would have done for her? Although I'm not saying you  
47 have a recollection of doing it, but would you have been



1 prepared to make the initial contact, for example, with  
2 Monsignor Hart to put him in contact with Sister Redgrove?

3  
4 MS GERACE: I don't recall there even being any evidence  
5 given that that could have even happened. Why does it  
6 assist to go down a path that is neither this witness's  
7 evidence nor anyone else's evidence of that conversation  
8 having taken place.

9  
10 THE COMMISSIONER: I think Mr Gyles should be permitted to  
11 put that hypothetically.

12  
13 MR GYLES: Q. To be fair to you, what I'm suggesting is  
14 the sequence of events was - this is again hypothetical  
15 because you're not able to draw upon a recollection beyond  
16 the conversation you had with Sister Redgrove, but if you  
17 had said to her, "You'll need to contact the vicar general  
18 or the bishop about it", and if there had been a reluctance  
19 on her part to make that direct contact herself, you would  
20 have facilitated that approach by contacting the vicar  
21 general or the bishop to put them in contact with her?

22 A. I presume so, yes.

23  
24 Q. Is it the case that you have found the process of  
25 giving evidence in this Commission stressful?

26 A. Yes.

27  
28 Q. Do you find that when you are under stress it can make  
29 it more difficult than usual for you to recall historical  
30 events or the sequence or timing of historical events?

31  
32 MR KELL: I object.

33  
34 THE COMMISSIONER: Because it, what, calls into question  
35 the evidence you elicited this morning?

36  
37 MR KELL: What the witness is being asked is nothing to do  
38 with outside events; it is just whether giving evidence is  
39 stressful. It might be stressful for all sorts of  
40 witnesses and, Commissioner, you are in a position to make  
41 assessments of any witness. Asking a witness a question  
42 along those lines, which is a completely different topic  
43 from what I asked, is not something that will assist you.  
44 It is not something on which this witness is able to  
45 provide any assistance to you and it is an illegitimate  
46 form of inquiry of a witness.

1 THE COMMISSIONER: In the sense that if one - for whatever  
2 reason it may be - can't remember something, you don't  
3 know, you can't remember it.

4  
5 MR KELL: It speaks for itself. Every witness who has  
6 come before this inquiry may find the situation stressful  
7 in the sense that it is very different from ordinary life  
8 and that's taken into account when assessing what witnesses  
9 are able to say, but they take an oath and they give  
10 evidence as to their recollections to the best of their  
11 ability.

12  
13 THE COMMISSIONER: If they can't remember, they say so.  
14 Mr Gyles?

15  
16 MR GYLES: We have a situation where, true it is that  
17 every witness in every court may be taken to be under some  
18 stress, and --

19  
20 THE COMMISSIONER: That's part of the system, I think,  
21 Mr Gyles.

22  
23 MR GYLES: It is part of the system. With regard to  
24 Father Burston, it no doubt will be said - and I think it's  
25 patent from my learned friend's position in terms of his  
26 questioning - that his memory will be criticised, but if he  
27 perceives, when he is in a position of stress, that it can  
28 lead to difficulties with sequencing of historical events  
29 or recall and he's found this exercise to be stressful,  
30 that must be a potentially relevant thing for you to take  
31 into account.

32  
33 THE COMMISSIONER: I can certainly take into account the  
34 stressful situation, Mr Gyles, and indeed the stresses that  
35 Father Burston suffered outside the court as well, but  
36 I don't know that we can go any further than that.

37  
38 MR GYLES: If it's not of assistance, I won't pursue that.

39  
40 THE COMMISSIONER: Thank you, Mr Gyles.

41  
42 MR GYLES: Q. Despite any difficulties you might have  
43 had with your memory of historic events and the sequencing  
44 of the same, can we take it that you've done your best to  
45 be truthful in the evidence you've given before this  
46 Commission?  
47 A. Yes.

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Q. And so far as police investigations are concerned, have you ever knowingly or intentionally hindered or failed to assist in or cooperate with any police investigation of matters involving the sexual abuse of children, including those relating to McAlinden and Fletcher, or colluded with others to do so?

A. Sorry, that's a long question. The answer is no, I have not hindered in any way.

MR GYLES: Thank you. Those are my questions, but I do propose to tender a medical report of Dr Adam Frost. My learned friend may wish to tender it. I'm happy for that to happen either way.

THE COMMISSIONER: Have you seen this, Mr Kell?

MR KELL: I have, Commissioner, and I'm happy to tender it. It may be that Father Burston could now be excused and we could deal with the tender. It's not intended to ask him questions about the document.

THE COMMISSIONER: Father, thank you for your evidence. I'm sorry you've had to come so many times over such a long period. Thank you for your attendance and you are now excused.

**<THE WITNESS WITHDREW**

MR KELL: Commissioner, can I hand up a letter that has been received from the representatives for the diocese, which is a letter dated 24 July 2013 from a Dr Adam Frost.

THE COMMISSIONER: I've read that, thank you.

MR KELL: Commissioner, a document of not identical form but a document directed to another priest was received in evidence in relation to Father Saunders in different circumstances. Having received this document, I am content as counsel assisting for it to be tendered, but I will make some comments about the weight that should be given to it. At the end of the day when there are submissions on the evidence of witnesses, my submission would be that it would be a letter that you would accord very little weight to, and I'll mention a couple of things now, but I do tender it, Commissioner.

1 THE COMMISSIONER: The letter from Dr Adam Frost in  
2 relation to Father Burston will be admitted and marked  
3 exhibit 165.  
4

5 **EXHIBIT #165 LETTER FROM DR ADAM FROST RELATING TO**  
6 **FATHER WILLIAM BURSTON, DATED 24/07/2013**  
7

8 MR KELL: I flag now that there are a number of issues  
9 relating to the letter. The first is that it is very much  
10 in terms of an impression. If one looks at the second-last  
11 paragraph, there is no formal diagnosis of any kind. It's  
12 simply the GP indicating "my impression is that the patient  
13 has a mild impairment of memory" and, similarly, there is  
14 no --  
15

16 THE COMMISSIONER: And he confirms that, if there is such  
17 an impairment, it is probably due to numerous anaesthetics,  
18 so that would seem to have some medical basis.  
19

20 MR KELL: Yes. But it is clear that there is no reference  
21 to any baseline testing having been undertaken and you'll  
22 see that from the fourth paragraph. That sort of impacts  
23 on the extent to which any GP or medical practitioner is  
24 able to give an opinion as to whether there has been any  
25 deterioration or change in memory inconsistent with the age  
26 of a patient.  
27

28 THE COMMISSIONER: Still, I note, Mr Kell, that this  
29 doctor has treated Father Burston since 1990 and says that  
30 he has noticed some memory loss and decreased verbal  
31 fluency over the years.  
32

33 MR KELL: Yes, but by the same token the same doctor is at  
34 pains to indicate that he has no baseline testing and that  
35 sort of impacts on any assessment to the extent that there  
36 is one. He records that he has difficulty in recalling  
37 names and completing crosswords, but that's a far cry from  
38 some of the topics that the Commission has been looking at.  
39 I accept that that is a matter for submission.  
40

41 THE COMMISSIONER: Yes. Thank you, Mr Kell.  
42

43 MR KELL: But, also, he does note that father has had  
44 several operations to treat complications and he refers to  
45 certain documented anaesthetics, but he doesn't provide any  
46 expertise in a medical sense of any connection between that  
47 and any memory loss. That may well be a matter for

1 expertise beyond a GP in any event and it's certainly not  
2 included in here.

3

4 THE COMMISSIONER: It's quite a lot of operations and  
5 Dr Frost seems to suggest that it is almost common  
6 knowledge - perhaps it is in medicine - that anaesthesia to  
7 this degree may impair memory. Thank you, Mr Kell. I'm  
8 across it. Thank you.

9

10 MR GYLES: While we are alive to this, can I say a couple  
11 of things if my learned friend has finished. Dr Frost does  
12 talk about having an ageing practice, looking after over  
13 200 nursing home patients. He says he frequently sees  
14 memory loss even as a consequence of even a single  
15 anaesthetic. He draws upon his personal experience.  
16 Dr Frost tells us that there can be formal psychometric  
17 testing of this matter, but he says there would be a  
18 significant delay in arranging that.

19

20 In terms of Father Burston's position, it wasn't until  
21 last Wednesday or Thursday that we were aware that there  
22 would be a challenge to his memory. It's one thing to be  
23 aware that a witness you have may have difficulty recalling  
24 events, but that may have been accepted as being truthful  
25 and that was the first opportunity we had to deal with  
26 this. Given the time available, this is really the best  
27 we've been able to do.

28

29 THE COMMISSIONER: Thank you.

30

31 MR GYLES: All that can be dealt with in due course.

32

33 THE COMMISSIONER: Thank you very much. Very well.  
34 Mr Kell?

35

36 MR KELL: Commissioner, finally, the issue was raised  
37 of psychometric testing. I should indicate for the record  
38 that given the absence of any baseline testing on  
39 Father Burston, which is a matter acknowledged by Dr Frost  
40 in his letter, those assisting presently don't consider  
41 that such postulated psychometric testing would be of  
42 utility. I note that Dr Frost in his own letter doesn't in  
43 fact indicate that any steps are being taken to arrange for  
44 such psychometric testing.

45

46 THE COMMISSIONER: It's very difficult without any  
47 testing, say from 40 years ago, or 30 years ago or the

1 relevant time, to quantify these memory losses in people of  
2 advanced years. Thank you, Mr Kell.

3  
4 MR GYLES: The other point which I think fell from you,  
5 Commissioner, is that when it comes to testing memory, in a  
6 way, one is dealing as a matter of faith with the person  
7 who is undertaking the testing. Had that testing been  
8 undertaken and had it shown up as a poor memory, it may  
9 well be said that the way in which the witness conducted  
10 himself in that - in other words, something that's  
11 happening after that process, there may be some criticism  
12 of the way in which he has conducted the testing.

13  
14 THE COMMISSIONER: That's right. Mr Gyles, from my own  
15 limited knowledge with ageing parents and so on, so much of  
16 the assessment is done on self reporting by the person, so  
17 it's very, very difficult for even geriatricians to  
18 quantify.

19  
20 MR GYLES: Exactly.

21  
22 MR HUNT: I call Elizabeth Doyle.

23  
24 MR BICKFORD: Ms Doyle relies on section 23.

25  
26 <ELIZABETH DOYLE, sworn: [12.34pm]

27  
28 <EXAMINATION BY MR HUNT:

29  
30 MR HUNT: Q. Is your name Elizabeth Doyle?

31 A. It is.

32  
33 Q. Can I show you, Ms Doyle, a redacted copy of your  
34 statement prepared for this Commission, and a copy for you,  
35 Commissioner. Ms Doyle, is that a statement that you  
36 prepared at the request of those assisting the Commissioner  
37 sworn by you on 2 July 2013?

38 A. Yes.

39  
40 Q. Were you doing your best to be truthful and accurate  
41 at the time that you swore that statement?

42 A. Yes.

43  
44 Q. Do you ask that the Commissioner takes that into  
45 account as part of your sworn evidence today?

46 A. Yes.  
47

1 MR HUNT: It has come to our attention that the  
2 appointments document for McAlinden has not been tendered,  
3 and I propose to tender it through Ms Doyle. I'll just ask  
4 some short questions on that topic.

5  
6 THE COMMISSIONER: Thank you, Mr Hunt.

7  
8 MR HUNT: Q. Would you just look at volume 7, which is  
9 there in front of you, and could you open that to tab 517.  
10 It should be towards the back. In the course of your  
11 duties - I'll just summarise briefly - you've had different  
12 job titles, but effectively since 1993 you were variously  
13 either the secretary or the assistant to Bishop Clarke,  
14 Bishop Malone through the entire period of his episcopacy,  
15 and are now the executive assistant to Bishop Bill Wright?  
16 A. Yes.

17  
18 Q. Among your duties have you, from time to time, needed  
19 to make notations or look to files that hold various  
20 priests' statements of appointments?  
21 A. Yes.

22  
23 Q. Is the statement of appointment held in a priest's  
24 general personnel file?  
25 A. As in these statements?

26  
27 Q. Yes.  
28 A. Records - no.

29  
30 Q. Where are they held?  
31 A. They are all held in an arch-lever file together.

32  
33 Q. So the global records of any priest currently  
34 incardinated to the diocese, their appointments are held in  
35 the one spot?  
36 A. Yes, there is one arch-lever folder and they are all  
37 filed alphabetically.

38  
39 Q. That document there, is that a statement of  
40 appointments in relation to Denis McAlinden?  
41 A. Yes.

42  
43 Q. Is there any of your writing on the second page of  
44 that?  
45 A. Yes.

46  
47 Q. Can you read aloud what writing is yours?

1 A. Yes. It says:

2

3 *[Advised] by [Archbishop] Hickey (Perth) on*  
4 *1/12/05 that Denis McAlinden had passed*  
5 *away late last night (30/11/05) of a heart*  
6 *attack. He is to be buried on 8/12/05.*

7

8 MR HUNT: I tender the statement of appointment behind  
9 tab 517.

10

11 THE COMMISSIONER: The appointments document in relation  
12 to Denis McAlinden behind tab 517 will be admitted and  
13 marked exhibit 166.

14

15 **EXHIBIT #166 APPOINTMENTS DOCUMENT IN RELATION TO**  
16 **DENIS McALINDEN (TAB 517)**

17

18 MR HUNT: Q. Before you put it away, I'm going to ask  
19 you about one other piece of handwriting that might be  
20 yours. Do you see over on the lower left-hand margin of  
21 page 2 there is something that says "Will Yes 3/7/96"; is  
22 that also your handwriting?

23 A. No, that's not.

24

25 MR HUNT: I tender the statement of Elizabeth Doyle.

26

27 THE COMMISSIONER: Ms Doyle's statement will be admitted  
28 and marked exhibit 167.

29

30 **EXHIBIT #167 STATEMENT OF ELIZABETH DOYLE, DATED 2/07/2013**

31

32 MR HUNT: Q. Briefly, I want to ask you some questions  
33 about the typing ability of various clergy that you have  
34 worked with one way and another. Is it the case that  
35 Bishop Leo Clarke could type, to your recollection?

36 A. My knowledge is that he could simply because I'm  
37 pretty sure that prior to him coming to our diocese, his  
38 appointment as bishop of the diocese, at some point he had  
39 been secretary to - I don't know if it's the bishop or  
40 archbishop in Melbourne diocese.

41

42 Q. And Monsignor Hart you suspect can't type, or --

43 A. I think I know that for a fact - well, back then  
44 anyway. I don't know about now.

45

46 Q. When you say "back then", when he was vicar general --

47 A. That's right.



1  
2 Q. -- to Bishop Clarke you didn't take the view that  
3 Monsignor Hart was a typist?  
4 A. Correct.  
5  
6 Q. Father Bill Burston?  
7 A. Yes, Father Bill could type. How efficient I don't  
8 know; he may have only used two fingers but he could type.  
9  
10 Q. What about Bishop Michael Malone?  
11 A. No.  
12  
13 Q. I want to take you to a couple of documents. I want  
14 to turn up one bit of your statement. Just bear with me a  
15 moment. I think your position is that whilst you accept  
16 that you may have either read correspondence or typed  
17 correspondence about allegations of clergy abusing people  
18 back in the 1990s, you now don't recall that. You don't  
19 have a specific recollection of that; is that the position?  
20 A. No, not specifically of that particular issue.  
21  
22 Q. Would you look at volume 3. Volume 7 can be put away  
23 now. Would you look behind tab 216. Your general practice  
24 when you type a document is that you type something below  
25 the signature area if somebody else is going to sign the  
26 document, indicating the initials of the person for whom  
27 you've typed it and then a slash and then "ED", indicating  
28 that you're the typist. Is that generally your practice?  
29 A. Generally, yes.  
30  
31 Q. Would you look at tab 216 and see the whole of that  
32 document.  
33 A. Yes.  
34  
35 Q. Does that seem to be a letter written by Bishop  
36 Clarke?  
37 A. Yes.  
38  
39 Q. If you adopted your usual practice, from the face of  
40 that, that would seem to be an example of a document that  
41 wasn't typed by you.  
42 A. Yes.  
43  
44 Q. And either typed by the bishop himself or by some  
45 other secretarial assistant that didn't have the same  
46 practice that you did; is that right?  
47 A. Yes, but it may have been typed by me, because --

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Q. Why do you say that?

A. I say that because I think when I first started in that role, having come from a 20-year career as a travel agent and not really typing letters like this, that wasn't part of my role then, I probably wasn't aware that one should probably put a reference on the bottom of it. So I guess there could have been some letters that I may have typed prior to starting to put a reference on the bottom.

Q. Given that you commenced employment with the diocese as a secretary to Bishop Clarke on 4 January 1993, and that letter is dated 5 March 1993, it represents, in your fairly early period, adapting from being a travel agent to doing something else.

A. Yes.

Q. I'll just show you a couple of other documents. Would you look at tab 243 in that same volume. Is the character of the document there - first of all, is it a document that's dated 10 May 1995?

A. Yes.

Q. Is the document that's there a letter from Bishop Clarke to Bishop Pedro Bantique in the Philippines?

A. Yes.

Q. Do you see down the bottom there is "+LMC/ed"?

A. Yes.

Q. Does that suggest to you that you typed that letter?

A. Yes, I would have typed that.

Q. You accept the character of that letter is a letter that deals with at least "issues" in relation to McAlinden?

A. Yes.

Q. Would you now turn to the next document, which is tab 244? That's a letter 23 May to the apostolic pro nuncio from Bishop Clarke. Does that also seem to have been typed by you?

A. Yes.

Q. Would you go, also, to tab 262. Is that also a letter that you would seem to have typed for Leo Clarke that was addressed on 19 October 1995 to McAlinden?

1 A. Yes.  
2  
3 Q. The correspondence that I've been taking you through  
4 in the last three tabs is effectively the period towards  
5 the end of Bishop Leo Clarke's episcopacy.  
6 A. Yes.  
7  
8 Q. Can you now, remembering that type of correspondence,  
9 say what, if any, discussion there was in terms of  
10 Bishop Michael, who was then the coadjutor bishop, being  
11 involved in those discussions with Bishop Leo, to your  
12 knowledge?  
13 A. No, I can't say, basically because - I mean, they may  
14 have had discussions about it, but primarily because of the  
15 layout of our office, the offices where the coadjutor  
16 bishop, Bishop Michael, was and where Bishop Leo was were  
17 outside the area where my office was and actually Bishop  
18 Leo was upstairs so they could well have had conversations  
19 that I wasn't aware of.  
20  
21 Q. Could you go back and look at tab 256. I just want to  
22 ask you some questions. I don't know whether this is a  
23 document that you typed or not. It's minutes of a deans'  
24 meeting, Wednesday, 2 August 1995. Can you say whether it  
25 was within your duties in 1995 to type up minutes taken by  
26 somebody else of deans' meetings?  
27 A. I can't remember, but I could probably say that I may  
28 have well done that.  
29  
30 Q. If it's minutes rather than correspondence, would you  
31 do the "/ED" at the bottom of something like minutes?  
32 A. No.  
33  
34 Q. So the fact that that doesn't have any note on the  
35 bottom doesn't mean that you didn't type it?  
36 A. Correct.  
37  
38 Q. Can you say whether you think it's likely that you  
39 typed this document?  
40 A. It could be, because I'm assuming that this is the  
41 document that there's been some question over the word  
42 "legislation".  
43  
44 Q. Indeed.  
45 A. I've been thinking about that, and there is  
46 every possibility that I could have typed those minutes,  
47 because they would have been given to me, especially if

1 Monsignor Hart had taken those minutes, because his writing  
2 was absolutely impossible to decipher, so I could well have  
3 typed them and typed an incorrect word in there, because  
4 I didn't know what the other word meant.

5

6 Q. Looking to the personnel who were at that meeting,  
7 there was Bishop Clarke, coadjutor Bishop Malone, Monsignor  
8 Hart, who was then the VG, and various deans.

9 A. Yes.

10

11 Q. Is it your best view that it would likely have been  
12 the vicar general who took minutes back then?

13 A. If he was present at that meeting - it was 1995 - and  
14 the fact that he was living on site where our office was,  
15 it would make sense that he would have taken them and then  
16 just given them to me, because he was nearby, for me to  
17 communicate with about the minutes.

18

19 Q. Can you help the Commissioner with this? If you look  
20 at the very bottom, you'll see that these were minutes that  
21 were actually signed off - even though the meeting relates  
22 to an August meeting, Bishop Clarke signed off the minutes  
23 on 3 October 1995.

24 A. Yes.

25

26 Q. Looking at his signature there, and then going back  
27 up to page 2 and the second item where there is a  
28 strike-through of the word "legislation", and some figure  
29 above that, can you say anything about that figure from  
30 your knowledge of correspondence signatories and the like  
31 back then?

32 A. I mean, it looks like it could be Bishop Leo's, but  
33 I couldn't say 100 per cent.

34

35 Q. Were you not the typist of this, could you nominate  
36 who else back in that sort of time, between August  
37 and October 1995, would likely have been the typist?

38 A. Me.

39

40 Q. It would have been you?

41 A. Yes.

42

43 Q. In other words, it was too late for it to be Joan  
44 Boyle --

45 A. Oh, yes.

46

47 Q. -- who was your predecessor and too early for somebody

1 like Maree Lawrie to be involved; is that right?  
2 A. Yes.  
3  
4 Q. So you think it's highly likely that it was you?  
5 A. Was me, yes.  
6  
7 Q. You think it was likely that it was Monsignor Hart who  
8 did the writing and, if so, a word that was not regularly  
9 known to you, you might not have been able to make it out.  
10 A. Yes.  
11  
12 Q. You've been following the evidence. Do you have a  
13 view what that word was meant to be?  
14 A. Look, I don't really know, but I guess having heard,  
15 yes, what I've heard, I would, at a guess, say it was  
16 laicisation.  
17  
18 Q. Given the length of the word and what you've heard  
19 about the topic of conversation and the like?  
20 A. Yes, and that's why I would have probably put  
21 "legislation" because I wouldn't have known what  
22 laicisation was.  
23  
24 Q. Did you come to know what laicisation was back in that  
25 1995 period? In other words, was it something discussed  
26 within the chancery?  
27 A. No.  
28  
29 Q. In your stat dec you indicate - I just want to move to  
30 a different topic now - that you can't remember who coined  
31 the term "special issues" within the chancery?  
32 A. Yes.  
33  
34 Q. No idea at all?  
35 A. Oh, no, because I never referred to those particular,  
36 what I would call confidential files, as "special issues".  
37  
38 Q. That was a term that others used, but you would use  
39 the term "confidential files", would you?  
40 A. No, we probably used the term, or I would have used  
41 the term "bad" and "good", to distinguish between them.  
42  
43 Q. So a priest's normal personnel file you would call a  
44 good file?  
45 A. Yes.  
46  
47 Q. And what others might have called "special issues"

1 files you would call the "bad" files?  
2 A. (Witness nods head).  
3  
4 Q. Where were the bad files kept back in the 1990s?  
5 A. Oh, in the 1990s, I didn't even know if there were  
6 any, but if there were, they were all kept in one cabinet  
7 in the - well, where the normal - the good - what I would  
8 then consider the good files were all kept. All files were  
9 in one cabinet. My belief is that as the confidential or  
10 bad files were - what's the word - established, that at one  
11 point they were then put into a separate file. So if you  
12 had a priest who had a good and a bad file, they would be  
13 one behind the other - the good file in the front and the  
14 bad file or the confidential file behind.  
15  
16 Q. Not quarantined off - the same area but just separate  
17 files within the same --  
18 A. I'm sorry, you are talking 1995?  
19  
20 Q. Yes.  
21 A. No, 1995 I didn't even know what existed. All I knew  
22 was that there was a cabinet with priests' files in it.  
23  
24 Q. The kind of correspondence that I've been showing you  
25 that you typed, and I assume the bishop signed and it went  
26 off in the mail --  
27 A. Yes.  
28  
29 Q. -- back in those days, what kind of copy would have  
30 been kept?  
31 A. Oh, just exactly - like, that would have been - what's  
32 in here --  
33  
34 Q. Were they carbon copies back then?  
35 A. 1995? No, we had a computer then, so they would have  
36 been printed off the computer.  
37  
38 Q. Where would you file the sorts of things that I've  
39 been showing you to Bishop Bantique or the apostolic  
40 nuncio? Where would the copies go? Would they be in a  
41 personnel file or in a bad file or --  
42 A. I don't know because I didn't file anything back then.  
43  
44 Q. Who did the filing back then?  
45 A. I'm assuming that would have been just been the  
46 bishop. Whether the vicar general did or not, I don't  
47 know - the vicar general at the time, I don't know.

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47

Q. I will use "secretarial", although I know your role has grown in importance, so I don't want to --

A. I wouldn't say that.

Q. I don't want to have to keep changing the title. When did it become an executive assistant secretarial function to file things away within the chancery?

A. That would have been in Bishop Michael's time when He became - I don't know exactly when, but some time during his episcopacy is when I started to file.

MR HUNT: I'm going to move to a different topic so that might be a convenient time, Commissioner, if that is convenient.

THE COMMISSIONER: Yes, very well, Mr Hunt. 2 o'clock, thank you.

**LUNCHEON ADJOURNMENT**

1           **UPON RESUMPTION:**

2  
3           MR HUNT:    I recall Ms Doyle.

4  
5           Q.    I said I was going to move to a new topic, but I'm not  
6 going to. Look at volume 3, tab 250. Looking at the marks  
7 on the bottom of that letter, does that seem to you to be a  
8 letter that you typed for Monsignor Hart dated 20 June 1995  
9 to Reverend Castillo in the Philippines?

10          A.    Yes.

11  
12          Q.    Do we gather in that period that you're likely to have  
13 typed all Vicar General Hart's correspondence?

14          A.    Yes. During which period, sorry?

15  
16          Q.    The 1995-type period.

17          A.    I probably would have, yes.

18  
19          Q.    I think the position is you would describe the  
20 relationship between Bishop Clarke and Monsignor Hart as  
21 being fairly close?

22          A.    I would have thought so, yes.

23  
24          Q.    And self-contained in terms of you would imagine there  
25 was a fair bit of information exchanged between the two of  
26 them that, say, you wouldn't get to know as the personal  
27 assistant?

28          A.    Yes. Whatever would have been exchanged between them,  
29 I was not privy to.

30  
31          Q.    Look at behind tab 265 for completeness in that same  
32 volume. Do you see a letter there, 2 November 1995?  
33 Looking at the markings on that, are you satisfied that  
34 it is likely that you typed that correspondence for Bishop  
35 Malone in the last day of him being the coadjutor bishop?

36          A.    Yes.

37  
38          Q.    I'll just show you another document that is not in  
39 the bundle. There is a copy for the witness and a copy  
40 for the Commissioner. Is that a letter that you typed for  
41 Bishop Clarke on 18 October 1995 addressed to Mr Lauer,  
42 Commissioner of Police?

43          A.    Yes.

44  
45          Q.    Do you remember the circumstances of typing that  
46 letter? Had you had any involvement in the matters that  
47 were the subject matter of that letter before typing it?



1 A. Can I just read it?  
2  
3 Q. Yes, of course you can. Take your time.  
4 A. Yes, I'm aware of what that refers to.  
5  
6 Q. Were you aware back then? Before you typed that  
7 letter, had there been discussion in those few days after  
8 Father Ryan's arrest within the chancery about that issue?  
9 A. No. No.  
10  
11 Q. Do you remember knowing before you typed that letter  
12 that there had been police involvement?  
13 A. Yes, because I was actually the person who the police  
14 called on the day that Vince Ryan was arrested.  
15  
16 Q. Can you now say, aided by reading that letter, whether  
17 Bishop Clarke himself had personal contact with the police  
18 as a result of their interest in Ryan?  
19 A. Do you mean before this or after this?  
20  
21 Q. Yes.  
22 A. Before it?  
23  
24 Q. Before the typing of the letter?  
25 A. No.  
26  
27 MR HUNT: I tender the letter.  
28  
29 THE COMMISSIONER: The letter from Bishop Clarke to  
30 Mr Lauer dated 18 October 1995 will be admitted and marked  
31 exhibit 168.  
32  
33 **EXHIBIT #168 LETTER FROM BISHOP CLARKE TO THE COMMISSIONER**  
34 **OF POLICE, MR LAUER, DATED 18/10/1995**  
35  
36 MR HUNT: Q. Ms Doyle, could you look at page 5 of your  
37 statement. You can close that volume. You'll be glad to  
38 know we've finished, at least for my purposes, with that  
39 volume. Question 5 on page 5 invited you to give details  
40 of any instructions, oral or written, given to you during  
41 the episcopies of each of Bishop Clarke, Bishop Malone  
42 and/or Bishop Wright broadly in relation to the topic of  
43 cooperation with police; do you see that?  
44 A. Yes.  
45  
46 Q. In paragraph 33 you say:  
47

1            *I was not given any instructions in*  
2            *relation to this question during*  
3            *Bishop Clarke's episcopacy.*

4  
5            And you are nodding? You are adopting that?

6            A.    Sorry, yes, that's right.

7  
8            Q.    Is it the position that you were never asked to do  
9            anything for the bishop relative to police inquiries during  
10           the period that he was bishop?

11           A.    Yes.

12  
13           Q.    Is it a reasonable proposition that, had you been,  
14           because of the unusual nature, that's something that is  
15           likely to have stayed in memory?

16           A.    Had I been, yes.

17  
18           Q.    In paragraph 34 in relation to Bishop Malone you say  
19           this:

20  
21           *Bishop Malone gave me an oral instruction*  
22           *that I was to assist the Police with*  
23           *whatever the Police asked for. I cannot*  
24           *recall actual words he used, but it was*  
25           *words to the effect of:*  
26           *"If the Police want access to files, give*  
27           *it to them."*

28  
29           A.    Yes.

30  
31           Q.    Was that then your practice?

32           A.    Yes.

33  
34           Q.    Can I ask you this: doing your best when in time did  
35           Bishop Malone give you instructions at that time? He  
36           became bishop in 1995 - until his retirement?

37           A.    Look, I can't remember the exact date, but I'm just  
38           trying to get in my head what building we were in, because  
39           we moved offices. We moved from Maitland to Hamilton.  
40           Then when we were in Hamilton, we then changed offices  
41           within the Hamilton site, and I feel it was before we moved  
42           to our existing - where we are now - our existing office.  
43           So it would have been - that was in 2006, so that's all  
44           I can say, some time in that period before we moved.  
45           I know it was in the - our first building that we moved  
46           into.

1 Q. So it was in Hamilton but the first offices at  
2 Hamilton?  
3 A. Yes.  
4  
5 Q. And you're clear that it was after the move from  
6 Maitland?  
7 A. Oh, yes.  
8  
9 Q. When was that?  
10 A. That was - I think we moved early March 1995 - yes,  
11 1995, because Bishop Michael didn't actually have an office  
12 in Maitland.  
13  
14 Q. Can you remember now what the context was of  
15 Bishop Michael raising that with you? One would assume  
16 it's not the kind of thing that he would say, "I'm going to  
17 start to open my own mail now, Elizabeth, and by the way if  
18 the police want anything, give it to them." Can you  
19 remember what the moving event was that meant he was  
20 talking to you about the police?  
21 A. Yes, I'm pretty sure it was following the arrest of  
22 Vince Ryan because I can remember the police coming in at  
23 some point - I don't know when, but at some point asking -  
24 like, wanting the Vince Ryan file.  
25  
26 Q. Can you remember whether that was Detective Grant -  
27 Troy Grant?  
28 A. Yes, I remember him. Yes, it was him.  
29  
30 Q. So you know it was him, but you can't say exactly  
31 when, time-wise?  
32 A. No.  
33  
34 Q. But from the time you were dealing with Troy Grant,  
35 the instruction was relative to just Vince Ryan, or --  
36 A. It was general, because as I say, I mean I had had -  
37 it was all - police/sexual abuse was all so foreign to  
38 me, so when the police came or rang - I don't even remember  
39 whether they rang or came in - and wanted access to  
40 Vince Ryan's file I remember the bishop - it was probably  
41 around that time that he said, "Yep, give it to them and -  
42 whatever the police want."  
43  
44 Q. Could you look at volume 5. I'm going to show you a  
45 document that is not your document, but I suspect relates  
46 to you. Could you look up tab 357.  
47

1 For the assistance of those at the bar table, the  
2 document that I'm taking the witness to relates to  
3 Detective Senior Constable Flipo's evidence, and I think  
4 the entry that I'm taking the witness to correlates with  
5 annexure B to exhibit 83, page 5, down the bottom, if that  
6 assists the parties.

7  
8 Do you have tab 357 now, Ms Doyle?

9 A. Yes, I do.

10  
11 Q. Do you see a note there. Perhaps you would be good  
12 enough to read out of what you can read of the handwritten  
13 notes below that typewritten document?

14 A. "Hasn't been", I assume an abbreviation,  
15 "Newcastle/Maitland for 10 years. Diocese for some time.  
16 Not sure where he is. Elizabeth - Maitland diocese OS."  
17 I assume overseas - "address of relative".

18  
19 Q. That seems to be a note that on the evidence was  
20 written in 2002 or 2003 by Senior Constable Flipo. Does  
21 that ring a bell?

22 A. No, it doesn't. Well, when I say it doesn't ring a  
23 bell, that I actually spoke to her, but having heard her  
24 evidence.

25  
26 Q. You don't have an independent memory --

27 A. No.

28  
29 Q. -- of her speaking to you?

30 A. No, I don't.

31  
32 Q. But you accept, given the content, first of all, in  
33 terms of people with the first name of Elizabeth at the  
34 chancery around that time, it's highly likely to have been  
35 you that she was speaking to?

36 A. Yes.

37  
38 Q. The inquiries that came in that were either bishop's  
39 type inquiries or more detailed personnel inquiries were  
40 likely to have been directed to you; is that right?

41 A. Personnel inquiries, from the police, do you mean?

42  
43 Q. Yes.

44 A. My memory is that I do recall speaking to different  
45 police over time, but most of them would always ask to  
46 speak to the bishop and if the bishop wasn't there, if the  
47 vicar general was there, I would say the vicar general was

1 there. They would either speak to them or if no-one was  
2 there, they'd say - I'd say, "How about I have them call  
3 you back?" So that's what would happen. I'm kind of  
4 surprised by this, because I don't recall any other police  
5 officer asking me - asking me the question, other than --  
6

7 Q. The material that's relayed there, assuming that it  
8 was you that relayed that material, would that material  
9 have been sourced in the personnel file of McAlinden?

10 A. I can't remember - having heard all of that from  
11 Detective Flipo, I can't remember whether I went to the  
12 file. I doubt I probably would have. I would have  
13 probably asked whoever was there - the bishop obviously  
14 wasn't there, I'm assuming, because I think the other  
15 evidence showed that I said I would check with him and call  
16 her back, so I'd either gone to the vicar general, if he  
17 was there at the time, and asked him.  
18

19 Q. So it's likely possibly to have been either  
20 Father Saunders or Father Burston; is that --

21 A. Yes, they would have been the vicar general then.  
22

23 Q. Do you remember generally, either relative to this  
24 incident or at that time, a number of inquiries about the  
25 whereabouts of McAlinden?

26 A. Not specifically McAlinden. As I say, when the police  
27 called, they just said to me, "I need to speak to the  
28 bishop" and most of the time I would put them through, or  
29 he'd call them back.  
30

31 Q. Priests that are incardinated to the diocese but  
32 aren't on the books in the sense that they are working in a  
33 parish in the diocese, where is address material stored, or  
34 where was, back in the 2000s, early 2000s, address material  
35 stored for priests who were away, whether they were on long  
36 service leave and so on?

37 A. We would have had - just like a list that probably -  
38 probably 2000 would have been on a computer by then. We  
39 probably had a database. That's just my recollection for  
40 that time.  
41

42 Q. Do you remember having occasion to update the database  
43 about McAlinden when his whereabouts became known?

44 A. Look, I may have, but I can't remember.  
45

46 Q. Could you get volume 3 out again, please, Ms Doyle.  
47 I just want to ask you about a couple of other documents

1 from the 1990s. Would you turn up tab 238. That would  
2 seem to be another letter that you typed for Bishop Clarke  
3 addressed to McAlinden and dated 8 November 1994.  
4 A. Yes.  
5  
6 Q. Is that broadly the topic of that correspondence  
7 correspondence that you broadly remember now, that is,  
8 correspondence with church officials and McAlinden whilst  
9 he was in the Philippines?  
10 A. I mean, I haven't read it totally, but I don't  
11 remember typing that. I don't remember that issue at all.  
12  
13 Q. Take your time in reading it if you want to.  
14 A. Okay.  
15  
16 Q. But you accept from the markings that it would seem to  
17 be --  
18 A. Me.  
19  
20 Q. -- typed by you?  
21 A. Yes.  
22  
23 Q. Would you look at the next one in the bundle as well,  
24 which is a letter of the same date. Would that appear to  
25 be typed by you?  
26 A. Yes.  
27  
28 Q. Do you remember that one?  
29 A. No, I don't.  
30  
31 Q. Did Bishop Clarke ever discuss this topic with you,  
32 the topic of it being McAlinden's desire to become  
33 incardinated, or at least work in the Philippines?  
34 A. No.  
35  
36 Q. Can I ask you this: when Bishop Malone arrived as the  
37 coadjutor bishop, I think you said initially when he first  
38 arrived he didn't even have an office when the offices were  
39 at Maitland?  
40 A. He didn't officially start as coadjutor his duties  
41 until we moved to Hamilton.  
42  
43 Q. Bishop Clarke and Monsignor Hart were a fairly tight  
44 unit?  
45 A. Sorry, Bishop Clarke and --  
46  
47 Q. And Bishop Clarke and Monsignor Hart as the vicar

1 general?

2 A. I would have thought so.

3

4 Q. Did it seem to you that Bishop Malone wasn't in the  
5 inner circle with Bishop Clarke and Monsignor Hart in terms  
6 of the finer tunings of the workings of the diocese? Is  
7 that a fair proposition when he first arrived?

8 A. Yes, it's probably a fair proposition, but then my  
9 memory is that Bishop Michael didn't actually spend a lot  
10 of time in the office when he was the coadjutor bishop. He  
11 was actually out in the parish a lot, so he wasn't very  
12 often in the office anyway.

13

14 Q. Did you form the view that he was excluded - whether  
15 it was because he was out in the parishes or by choice - by  
16 Bishop Clarke and Monsignor Hart, that Bishop Michael was  
17 excluded from some of the decisions and machinations within  
18 the diocese?

19 A. Yes, probably thinking about it, yes, he probably was  
20 but again because of the layout of our office, I don't know  
21 what conversations he may have had with Bishop Leo, because  
22 Bishop Leo's office was upstairs, Bishop Michael's was  
23 downstairs, the vicar general's was downstairs and so was  
24 mine. The ground floor was set out in such a way that any  
25 of those could have gone upstairs and we wouldn't have  
26 known where they were. They could have easily had  
27 conversations.

28

29 Q. Often the test of what level of communication has gone  
30 on is made out when somebody else is missing from the  
31 equation, so when Bishop Clarke retired, did Bishop Malone  
32 rely on you to understand how various things worked in the  
33 chancery?

34 A. What I did know, I assisted him with, but a lot of  
35 things I didn't know about.

36

37 Q. Did it seem to you, accepting the limitations of the  
38 layout and so on, that Bishop Malone hadn't been told about  
39 a number of important things when he started, particularly  
40 to do with the issues about McAlinden and the like?

41 A. Well, I don't really know, because I didn't even know  
42 the issue with McAlinden anyway. Can I just say, too,  
43 I know that the Vince Ryan thing was a surprise to him.

44

45 Q. Was a surprise to?

46 A. Bishop Michael.

47

1 Q. He came back from leave and that had all just  
2 happened; is that your recollection?  
3 A. Yes. I think he was due back, you know, within a  
4 couple of days or something of when the arrest happened.  
5  
6 Q. I want to explore what you just said about McAlinden.  
7 You obviously knew that there was some kind of issue with  
8 McAlinden because of the tenor of this correspondence, that  
9 is, that he was unsuitable to be incardinated and the like?  
10 A. Yes, I knew there was something, but I didn't really  
11 know what it was.  
12  
13 Q. When was the first time that you understood that there  
14 was a cloud over McAlinden that related to impermissible  
15 behaviour with children?  
16 A. I think it was probably - I don't know the exact  
17 period, but it was during Bishop Michael's time when  
18 I think more things started to come to the surface about  
19 that, and I guess I probably - there was correspondence  
20 that may have had - I can't remember precisely, but may  
21 have had sexual abuse actually mentioned in correspondence  
22 and --  
23  
24 Q. And - I didn't want to cut you off, keep going.  
25 A. I was going to say that I think the most of what  
26 I learned about McAlinden was what I read in the Newcastle  
27 Herald.  
28  
29 Q. Things coming to light or whatever expression you used  
30 a moment ago, did they include police interest?  
31 A. Well, I don't know, because when the police would  
32 contact, I don't know. They didn't say what it was about,  
33 so it could have quite easily - those phone calls I took  
34 could have quite easily been about him.  
35  
36 Q. When Bishop Michael commenced being bishop, personnel  
37 files and good and bad files, if they existed at that  
38 stage, were they within the bishop's office when Bishop  
39 Michael started, in other words, in that early period when  
40 he had just taken over from Bishop Clarke?  
41 A. Yes, there was a filing cabinet in there that had the  
42 personnel files in it, but I don't know, at that point of  
43 when he took over, what was there regarding I guess if you  
44 want to call it the bad or the confidential files because  
45 I wasn't privy, I didn't have access to any of that before  
46 that.  
47



1 Q. Accepting that Bishop Malone could access files in his  
2 office if you weren't there, did he ever ask you to get  
3 McAlinden's personnel file out from time to time?  
4 A. Oh, look, he may have, but I don't really have any  
5 recollection of him asking me that.  
6  
7 Q. So you don't recollect it, but you can't exclude it;  
8 is that --  
9 A. No, that's right.  
10  
11 Q. What do you say about the existence of a briefcase  
12 with secret files in Bishop Clarke's possession?  
13 A. I had heard at some point about that. I don't know  
14 who told me or when I heard, but I had heard about it, but  
15 I myself was not aware of it.  
16  
17 Q. Can I get you to refine that. Had you heard about it  
18 at the time that Bishop Clarke was still the bishop?  
19 A. No, no, this was after.  
20  
21 Q. You heard about it after the event?  
22 A. Yes.  
23  
24 Q. Did you ever come to know about Bishop Malone being  
25 handed secret files or a briefcase with secret files by  
26 Bishop Clarke?  
27 A. Yes, I had heard and, again, I don't know who told me  
28 and where I heard it, but I had heard and I was aware that  
29 there was a handover of a briefcase.  
30  
31 Q. Are we to understand that you had heard that that  
32 would be somebody within the chancery, or at Hamilton  
33 generally?  
34 A. I can't remember. I really can't remember. Chances  
35 are it was probably someone at Hamilton.  
36  
37 Q. Would you now look at volume 3, tab 206. I just want  
38 to have you review that material. Just scan the  
39 attachments if you would. You don't have to read it in  
40 detail, as long as you've satisfied yourself broadly as to  
41 what's there. Reading the covering email and then looking  
42 at the attachments, does that correspondence seem to be  
43 some material that you provided to Detective Sergeant  
44 Little on 18 January 2012 at the direction of Bishop Bill  
45 Wright?  
46 A. Yes. I've obviously done it, sent the email.  
47

1 Q. Does it seem to you that it was somebody else's job to  
2 obtain the material that's attached, that there has been  
3 some - apparently as a result of Detective Sergeant Little  
4 being in touch with Bishop Wright, that some kind of  
5 searches have been made from some records and some material  
6 has been provided to police?

7 A. Yes.

8

9 Q. Is that consistent with what you describe on page 5,  
10 paragraph 35, on that topic of instructions that you  
11 received about assistance with the police, that Bishop  
12 Wright had also given you an oral instruction to assist the  
13 police with whatever the police asked for. Do you see that  
14 in your statement?

15 A. Yes.

16

17 Q. Was that an instruction that Bishop Wright gave you  
18 early on when he became bishop?

19 A. Yes, I believe it was, and I think I just happened to  
20 say to him, "Look, you know, when Bishop Michael was here,  
21 he gave me instruction to give the police whatever they  
22 were looking for when they rang up or came in. I'm  
23 assuming I still carry on like that." He went,  
24 "Absolutely." .

25

26 MR HUNT: I tender tab 206.

27

28 THE COMMISSIONER: The material behind tab 206 will be  
29 admitted and marked exhibit 169.

30

31 **EXHIBIT #169 EMAIL FROM ELIZABETH DOYLE DATED 18/1/2012**  
32 **PLUS ATTACHMENTS (TAB 206)**

33

34 MR HUNT: Q. Would you turn up volume 5 again, Ms Doyle.  
35 We've finished with that one again. Tab 353; do you have  
36 353 open in front of you?

37 A. I do.

38

39 Q. You'll see there that there is an email which you sent  
40 on 5 July 2002 to John Davoren?

41 A. Yes.

42

43 Q. You understood at that stage that John Davoren was  
44 working with the Professional Standards Office?

45 A. Yes.

46

47 Q. There is some material that you have provided him in

1 relation to McAlinden, his date of birth and a couple of  
2 addresses, some of which has been redacted out of that  
3 copy. Do you see that?

4 A. Yes.

5  
6 Q. The writing, where it's saying: Advised  
7 Angela/Professional Standards Office "not too sure if" -  
8 there is a pseudonym - "is his sister", apparently the  
9 initials "ED" and the date 5/7/02. That's your notation?

10 A. It is.

11  
12 Q. You'll see there's another note which also appears to  
13 be in your writing and initialised by you; is that right?

14 A. Yes.

15  
16 Q. That says:

17  
18 *This info adv --*

19  
20 which I assume is your advice -- -

21  
22 *to Jackie Flipo, Charlestown Detectives ...*

23  
24 Then a phone number and then the date of 26/9/2002.

25 A. Yes.

26  
27 Q. Seeing that material, does that seem to make sense of  
28 the other note that I took you to earlier about where  
29 Detective Senior Constable Flipo seems to have made a note  
30 which is consistent with having been in contact with you?

31 A. It does.

32  
33 Q. Having seen that material, whether it's that same  
34 contact or another one with her, you're satisfied that you  
35 did provide two known addresses to Flipo in relation to  
36 McAlinden?

37 A. Yes, I know I would have done that, because I would  
38 not have written that there if I hadn't.

39  
40 MR HUNT: I tender that.

41  
42 THE COMMISSIONER: Tab 353, that is, the email from the  
43 witness, Ms Doyle, to Mr Davoren, with the handwritten  
44 notations will be exhibit 170.

45  
46 **EXHIBIT #170 EMAIL FROM MS DOYLE TO MR DAVOREN, DATED**  
47 **5/7/2002**

1 (TAB 353)

2  
3 MR HUNT: Q. Having refreshed your memory now about  
4 affirmatively providing material both to the Professional  
5 Standards Office about McAlinden's whereabouts and then to  
6 Flipo, did you consider yourself under a continuing  
7 obligation limited to the police that if you had come to  
8 some more material about McAlinden's whereabouts, you would  
9 have considered yourself obliged to contact the police  
10 about that?

11 A. No, I probably would not have.

12  
13 Q. Did you have any system for keeping track of, say,  
14 Flipo's details or any other police that were wanting to  
15 know about McAlinden within the chancery records?

16 A. Nothing other than his own file.

17  
18 MR HUNT: That's the examination-in-chief.

19  
20 THE COMMISSIONER: Mr Roser?

21  
22 MR ROSER: No.

23  
24 MR WILLIS: No questions.

25  
26 MS NEEDHAM: No questions.

27  
28 <EXAMINATION BY MR HARBEN:

29  
30 MR HARBEN: Q. Do you have your statement there?

31 A. I do.

32  
33 Q. The portion of your statement that you were taken to  
34 on page 5, paragraph 5, sets out what happened during the  
35 reign of various bishops. Do we take it that, because of  
36 the difference between paragraph 34 and paragraph 33, the  
37 change that you refer to was a significant change in terms  
38 of instruction to you?

39 A. Yes.

40  
41 Q. And the effect of that significant change was to  
42 ensure that if police wanted access to anything, they were  
43 to be given it?

44 A. Yes.

45  
46 Q. And Bishop Malone made that clear to you?

47 A. He did.

1  
2 Q. I take it that, over the years that he was bishop,  
3 that cooperation continued during all of that time.  
4 A. Yes.  
5  
6 Q. In relation to the document that you were taken to in  
7 volume 3 - do you have volume 3 there, tab 206?  
8 A. Yes.  
9  
10 Q. That's an email prepared by you?  
11 A. Yes.  
12  
13 Q. And sent by you?  
14 A. Yes.  
15  
16 Q. You'll see that you were asked to look at or briefly  
17 to scan the documents that appear immediately behind it.  
18 A. Yes.  
19  
20 Q. Each of those documents are not listed as attachments,  
21 are they?  
22 A. To the email?  
23  
24 Q. Yes.  
25 A. No.  
26  
27 Q. Just looking at the email itself, without having the  
28 benefit of whatever material followed that page, you would  
29 not be able to identify any particular document that was  
30 attached to the email, would you?  
31 A. No.  
32  
33 Q. And that was consistent with your practice, that from  
34 time to time you scanned things, for example, and attached  
35 them to emails?  
36 A. Yes.  
37  
38 Q. Or, if something came in, sent to you on the computer,  
39 you may from time to time attach and send that on as well?  
40 A. Yes.  
41  
42 Q. It would not be the case, would it, that on each  
43 occasion you would set out individually attachments, but  
44 from time to time you would do what you have done on this  
45 occasion - give a general description of an attachment?  
46 A. Yes, that's right.  
47

1 MR HARBEN: Thank you.

2

3 THE COMMISSIONER: Thank you, Mr Harben. Mr Gyles?

4

5 <EXAMINATION BY MR GYLES:

6

7 MR GYLES: Q. Apropos of Mr Harben's questions, if you  
8 were, by way of email, passing on a document which made  
9 specific reference to a document as opposed to a more  
10 general description, that where you have chosen to be  
11 specific, that might indicate that you were only passing on  
12 the particular document referred to. Would that be a fair  
13 thing to say?

14 A. Would you just repeat that?

15

16 Q. My learned friend has been putting to you that where,  
17 in the connection with the 18 January 2012 email --

18 A. Yes.

19

20 Q. Where you say "Please find attached documents"?

21 A. Documents, yes.

22

23 Q. You say that from time to time you would, in passing  
24 those documents, not identify the particular documents  
25 referred to?

26 A. Correct.

27

28 Q. Can we take it that there are other occasions where,  
29 when asked to provide information on by email, you would  
30 set out the specific documents in question?

31 A. Yes.

32

33 Q. And where you chose to do the latter, ie, to set out  
34 the specific documents, then presumably you would have  
35 referred to whichever documents you were passing on?

36 A. Yes.

37

38 MR HARBEN: I object to that. That asks for a specific  
39 response to a general question, which, with respect, this  
40 witness can't answer. She can be shown a document or an  
41 email as an example, but to classify something with  
42 specificity, as is being attempted, by the general  
43 proposition in the absence of such identification, is  
44 meaningless.

45

46 THE COMMISSIONER: What do you think, Mr Hunt?

47

1 MR HUNT: I'll reserve what I think, but my submission is  
2 that both Mr Harben and Mr Gyles have had some success in  
3 asking this in general terms. I suspect that there might  
4 be something they both want to ask about specifically which  
5 will have to wait for another day and in a different  
6 context because of the subject matter. If it's to go to  
7 specific documents apart from this document, it's probably  
8 best left to that other forum.

9  
10 THE WITNESS: Am I allowed to say something?

11  
12 MR HUNT: I would rather the witness not volunteer  
13 anything at this point.

14  
15 THE COMMISSIONER: Yes.

16  
17 Mr Harben, I'll allow the question and note that in  
18 fact Ms Doyle answered in the affirmative in any event.

19  
20 MR GYLES: I'll move on from that topic. I wouldn't want  
21 to upset Mr Harben.

22  
23 Q. You were asked some questions about tab 353 and that  
24 was your handwritten note of your communication with  
25 Detective Flipo; do you recall that?  
26 A. Yes.

27  
28 Q. My learned friend Mr Hunt asked you a question whether  
29 you regarded yourself as under a continuing obligation to  
30 inform the police if you became aware of information  
31 regarding McAlinden's current whereabouts; do you recall  
32 that?  
33 A. Yes.

34  
35 Q. I think your answer was "No." Can we take it that if  
36 at any time you or, to your observations, Bishop Malone had  
37 been asked by the police to provide the best information  
38 that you had as to McAlinden's current whereabouts, then  
39 that information would have been provided?  
40 A. Yes.

41  
42 Q. And that would be consistent with Bishop Malone's  
43 instruction to you so far as your giving information?  
44 A. Yes.

45  
46 Q. And consistent with your observation as to how  
47 Bishop Malone himself dealt with matters of that kind?

1 A. Yes.

2

3 MR GYLES: No further questions.

4

5 <EXAMINATION BY MR BICKFORD:

6

7 MR BICKFORD: Q. You were asked some questions at the  
8 beginning about your position with respect to previous  
9 allegations against members of the clergy, being child  
10 sexual abuse allegations?

11 A. Yes.

12

13 Q. Do I understand your evidence to be that you couldn't  
14 remember the specifics; is that right?

15 A. Yes.

16

17 Q. Then you gave some further evidence about not  
18 remembering what was happening with Father McAlinden in the  
19 early days, if I can put it that way; is that right?

20 A. Yes.

21

22 Q. You were taken to a number of documents. I'm sorry to  
23 do this to you, but can you look in volume 3, and I want to  
24 ask you some quick questions in relation to those  
25 documents. We might do them in chronological order. So in  
26 volume 3, perhaps if you turn up tab 238 to begin with. Do  
27 you have that document before you?

28 A. Yes.

29

30 Q. Just have a quick read to yourself and tell me when  
31 you're finished.

32 A. Yes, I'm finished.

33

34 Q. Contained within that document are there the words  
35 "child sexual abuse" at all?

36 A. No.

37

38 Q. Is the word "child" or "abuse" mentioned at all?

39 A. No.

40

41 Q. Turn to the next document, tab 239, a quick read again  
42 if you could.

43

44 MR HUNT: If it assists my friend, I'm quite prepared to  
45 concede that none of the documents I took the witness to  
46 speaks specifically of child sexual abuse or allegations in  
47 that fashion.



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THE COMMISSIONER: Thank you, Mr Hunt.

MR BICKFORD: That's sensible. I won't need to take the witness to any others in that case.

THE COMMISSIONER: Thank you, Mr Bickford.

MR BICKFORD: I thank my learned friend for that.

Q. Can I just ask you this question, and you can probably just close that volume for the time being: you were asked some questions about the special issues file; do you remember that?

A. Yes.

Q. I think, as part of your evidence, you referred to the good and the bad priests' files; is that right?

A. Yes.

Q. Your primary role within the diocese has always been in administration, hasn't it?

A. Yes.

Q. As a person in administration, you brought to the diocese administrative skills?

A. Yes.

Q. Part of that was to be involved in filing systems; is that right?

A. Yes.

Q. And from time to time you would create filing systems; is that right?

A. Yes, the systems were in place, but we would try to improve upon that, and even today we're still trying to improve upon the systems.

Q. Still trying to improve on those systems?

A. Yes.

Q. At some point I think during Bishop Malone's term as the bishop, he asked you to make a division between the files; is that right - that is, the personal priests' files?

A. Yes, that's right. My memory is that in the normal - or in the good files, what we now probably refer to as the

1 personnel files, that there was one file that would have  
2 contained every piece of correspondence that had come in or  
3 out for those particular priests. Then at one point, he  
4 asked me to make up a second file where there was  
5 documentation within those files that perhaps was - well,  
6 was considered confidential, so that they would then be  
7 separated.

8  
9 Q. When you say "confidential", it concerned matters  
10 involving misconduct to do with priests?

11 A. Misconduct --

12  
13 Q. Allegations of misconduct?

14 A. Allegations of misconduct.

15  
16 Q. Not just allegations of sexual abuse, for instance?

17 A. No, no. They could contain anything from that to  
18 perhaps where a parishioner within a parish may at some  
19 point have brought a concern to the bishop around perhaps  
20 what they considered was not good governance in the parish.

21  
22 Q. Something like that might go in the bad file as it was  
23 referred to?

24 A. Yes.

25  
26 Q. And that was, so far as you were aware, an  
27 administrative decision to make it more convenient to be  
28 able to retrieve or store documents; is that right?

29 A. Yes, that was my understanding, just for ease of  
30 access, really, that everything connected with specific  
31 things were together.

32  
33 Q. It didn't have anything to do with a specific  
34 instruction from the bishop as to the storage of secret  
35 files, for instance, did it?

36 A. No, no.

37  
38 Q. You've had a number of title changes during the  
39 20 years that you've worked for the diocese?

40 A. Yes.

41  
42 Q. From secretary, office manager, personal assistant to  
43 executive assistant. Is it fair to say essentially your  
44 role has remained largely the same?

45 A. Largely, but of course in 20 years, it has just  
46 evolved with what - that particular role in any industry,  
47 I guess, how that would evolve.

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Q. But it has always been from the beginning, and it is today, your responsibility to provide administrative assistance to the bishop?

A. Yes.

Q. And administrative assistance to the vicars general at the relevant time?

A. Yes. That's probably changing slightly now because we have a new staff member to assist me, who is doing work for the vicar general, but up until fairly recently, yes.

Q. You've never been given the responsibility by any of the three bishops that you've worked under to manage complaints about members of the clergy, have you?

A. No.

Q. And it has never been delegated to you, for instance, by any of the vicars general to manage complaints about members of the clergy?

A. No.

Q. You've never assumed responsibility in terms of managing complaints about members of the clergy?

A. No.

MR BICKFORD: Thank you, Commissioner. Those are my questions.

<EXAMINATION BY MR HUNT:

MR HUNT: Q. Just one matter of clarification and then there are a couple of other issues. Have you got tab 206 in front of you.

A. Tab 206?

Q. Tab 206 again, if you would. I think in summary I suggested that somebody else within the chancery might have searched or compiled documents. Would you look at the page that has 413 down the bottom, in other words, the page immediately behind the covering email.

A. Yes.

Q. Do you see about the middle of that diary note:

*I have had some discussion with Liz around this matter.*

1  
2 And indications of searching for cheque butts?  
3 A. Yes.  
4  
5 Q. Would that seem to refer to you?  
6 A. Yes, it was me.  
7  
8 Q. Just for completeness, do you remember doing part of  
9 this exercise?  
10 A. I do remember that. I remember being asked, yes.  
11  
12 Q. That's all I wanted to ask you about that.  
13 Mr Bickford and I have both taken you to examples of  
14 outgoing mail during the 1995 period in particular. If  
15 mail was marked "confidential" for the attention of the  
16 bishop and it came during Bishop Clarke's episcopacy, what  
17 was his practice about whether you would open his  
18 confidential mail, or whether he would?  
19 A. I didn't open any of his mail.  
20  
21 Q. At all?  
22 A. No.  
23  
24 Q. Confidential or not?  
25 A. No, nothing.  
26  
27 Q. Accepting the elliptical nature of some of the  
28 correspondence and perhaps euphemisms in some of the  
29 outgoing correspondence, are you able to, thinking about it  
30 carefully now, indicate when it was that you first  
31 understood in fact that there were known concerns about  
32 McAlinden and children?  
33 A. No. Look, I'd be guessing.  
34  
35 MR HUNT: Don't guess. That's the evidence. I'd ask the  
36 witness be excused.  
37  
38 THE COMMISSIONER: Thank you, Mr Hunt. Thank you very  
39 much, Ms Doyle, for your evidence, and you are now excused.  
40  
41 <THE WITNESS WITHDREW.  
42  
43 MS LONERGAN: I call John Francis Davoren.  
44  
45 MR BARAN: Commissioner, I seek an order under section 23.  
46  
47 THE COMMISSIONER: Thank you, Mr Baran, that is noted.

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<JOHN FRANCIS DAVOREN, sworn

[2.52pm]

<EXAMINATION BY MS LONERGAN:

MS LONERGAN: Q. Is your full name John Francis Davoren?

A. It is.

Q. I think you have some hearing difficulties?

A. I do.

Q. So do I, so we'll try both to keep our voices up.

A. Very good.

Q. That microphone in front of you amplifies a little bit, not a lot. Mr Davoren, you were ordained as a Catholic priest in 1960?

A. I was, yes.

Q. You were ordained to the archdiocese of Sydney and incardinated to the archdiocese?

A. Yes.

Q. You practised as a priest until about 1982; is that correct?

A. Yes.

Q. During your time as a priest you completed a bachelor of social work; is that right?

A. A bachelor of arts, diploma of social work.

Q. Was that in about 1965 you completed that?

A. Yes.

Q. And then you did a masters in Ohio, which led to the degree of masters in science and social administration?

A. At Western Reserve, Cleveland, Ohio.

Q. You were employed as director of Centacare Sydney at some point in 1971?

A. I was on the staff in Centacare from 1965, appointed director in 1971.

Q. When you were on the staff at Centacare, did you do general social-work-type duties as well as priestly duties?

A. I did.

1 Q. As director of Centacare, can you just outline briefly  
2 what that role involved?

3 A. I had a staff of some 12, 15. I had to raise money to  
4 have the operation work and we were responsible for  
5 admitting children to orphanages. I had a role in  
6 adoption. I was advising the Bishops Conference on welfare  
7 matters. There were quite a lot of implications in the  
8 job.

9

10 Q. You're aware that this Special Commission of Inquiry  
11 is very particularly focused on allegations of sexual abuse  
12 on the part of two particular priests?

13 A. Yes.

14

15 Q. I'm going to confine the questions that I ask you  
16 about your later role to your involvement in relation to  
17 those two priests, but before I do I have some preliminary  
18 matters to ask about. While you were director of  
19 Centacare, or an employee of Centacare, did you come to  
20 learn of any sexual abuse allegations regarding priests and  
21 children?

22 A. No.

23

24 Q. Are you able to identify at what point you first  
25 became aware of allegations of sexual abuse on the part of  
26 priests against children?

27 A. I would think probably only when I took on the job of  
28 director of Professional Standards.

29

30 Q. You left the priesthood in about 1982; is that right?

31 A. I stepped down in 1982. I didn't get released until  
32 1987.

33

34 Q. In between your time stepping down from the priest  
35 hood and the time you commenced your role in the  
36 Professional Standards Office, which was 1997, did you  
37 carry out any social work employment?

38 A. I was the chairman of the Alternate Care Committee for  
39 two years, adviser to the minister for children's services.  
40 I then went and worked for a large welfare agency, The  
41 Benevolent Society. I was briefly - yes, I was welfare  
42 director there for five years. My final year there I was  
43 the CEO of the Royal Hospital for Women, and then I moved  
44 on to be a member of the Veterans Review Board for six  
45 years.

46

47 Q. In those roles, was there any aspect where you had

1 involvement in allegations of sexual abuse on the part of  
2 priests?  
3 A. Yes.  
4  
5 Q. There was? Within those --  
6 A. No, no, only at that particular office, yes.  
7  
8 Q. I'm sorry, I probably confused you by the way I've  
9 gone about the process. In 1997 you commenced your role as  
10 the director at the Professional Standards Office?  
11 A. For New South Wales and the ACT.  
12  
13 Q. Prior to that role commencing, and in those jobs that  
14 you've just outlined in your previous answers, did you have  
15 any aspect that involved you looking at sexual abuse  
16 allegations against priests?  
17 A. No.  
18  
19 Q. How did your job at the Professional Standards Office  
20 come up? Was it a new role, or did you take over from  
21 somebody else? If you can outline the circumstances.  
22 A. It was a new role and I was approached - asked if  
23 I was interested in the job and I actually said no, but  
24 they gave me an interview anyway and I got the job.  
25  
26 Q. In terms of how the role was described for you, was it  
27 a role that was already established, or did you have to  
28 make it up as you went along to an extent?  
29 A. It was established in the Towards Healing document,  
30 but I had to set up the office and the procedures and  
31 protocol in accordance with those stipulations.  
32  
33 Q. I understand you're not able to identify exactly what  
34 month you commenced your work with the Professional  
35 Standards Office; is that right?  
36 A. Yes, I'm not sure precisely.  
37  
38 Q. Is it fair to say that in the initial phases the way  
39 in which certain activities were carried out by the  
40 Professional Standards Office were not perfectly  
41 documented? Is that a fair statement? .  
42  
43 MR BARAN: I object to the question. It's a bit too wide.  
44 What procedures are involved?  
45  
46 MS LONERGAN: I'll withdraw it. I will try to frame it in  
47 another way.

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Q. Given that your evidence is to the effect that part of your role was setting up systems of managing the role that you had, was that a bit of a trial and error process initially?

A. No, I don't think so. That's not my memory of it. Things could be improved, but it was workable.

Q. Was part of your role at the Professional Standards Office to set up a system by which certain allegations about certain priests could be reported to the police?

A. Yes.

Q. Was that something that came into play very early on in your period as the director, or was it something that evolved?

A. It started pretty early.

Q. Was there part of the Towards Healing processes that gave you any particular guidelines as to how things should be done in terms of reporting to police and when things should be done?

A. We had a statement of complaint in which everyone who made a complaint was advised of the possibility of going to the police and, in many cases, we encouraged them to, and we also offered to assist them to do so if they wanted to. We also had others who said they did not wish to report to the police. We had it carefully phrased that they signed off to that, but they were saying, in effect, "At this moment I do not intend." There was no possibility of it being seen later as a commitment not to report to the police.

Q. Mr Davoren, I'm going to take you to some examples of those Towards Healing complaint forms and that type of documentation in a minute. I just want to examine a little further one of your answers. You stated that "we encouraged persons who came forward to go to the police". By "we", who do you mean?

A. The people who were taking the complaint were all advised that that was the procedure they were to use and it was actually stated in the statement of complaint.

Q. Those people who were enlisted to assist with taking complaints, how were those people chosen?

A. They were chosen by the Wollongong office of Centacare.



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Q. So they would be people with a background in child protection or social work background, things of that nature?

A. Largely so, yes.

Q. I'm sorry?

A. Yes.

Q. So the procedure was that these statements of complaint would be taken by these individuals?

A. Yes.

Q. And provided to a central location, that is, the Professional Standards Office?

A. They were sent to me, yes.

Q. And then you personally would ensure, would you, that they were provided to the relevant bishop, just focusing only on priests at this stage?

A. Yes.

Q. Then you would expect a certain interchange between the bishop and you as to how these complaints would be dealt with?

A. Yes.

Q. And that was all under the Towards Healing process?

A. Yes.

Q. Can we take it from your evidence, and the timing of your commencement in your role, that you're unable to assist with what happened with complaints made before 1997 and how they were managed under any previous regime?

A. Yes, that was not seen as being my role. I became involved only if there were complaints later about some of those subjects that were prior to my appointment.

Q. So you would be unable to assist with matters such as Father Brian Lucas's involvement in the Special Issues Resource Group or any matters of that nature if they were before your time in your role?

A. No, I would not.

Q. You would not be able to assist.

A. No.

1 Q. Thank you. Mr Davoren, I'm going to take you to some  
2 specific documents dealing with the two priests with whom  
3 we are dealing. To your right is a series of intimidating  
4 looking bundles. I'm going to ask you to reach for volume  
5 4 and take you through some of the documents in there that  
6 were related to your activity. If you can turn to tab 304,  
7 which for those at the bar table is exhibit 93. You see  
8 behind tab 304, Mr Davoren, is a letter dated 10 August  
9 1999 directed to you?  
10 A. Yes.  
11  
12 Q. From a Reverend Burston?  
13 A. Yes.  
14  
15 Q. At the time, working in your role as director of the  
16 Professional Standards Office, did you on occasion receive  
17 letters like this?  
18 A. I did, yes.  
19  
20 Q. And in terms of the information in the letter, what  
21 did you then do with it as general practice to communicate  
22 it to the police? Did you convert it into some other form,  
23 or did you have a standard practice as to how you would  
24 deal with this type of information as at August 1999?  
25 A. That was advising me that they had made a complaint.  
26  
27 Q. Yes.  
28 A. That's how it would be treated as intelligence. We  
29 did not get the complaint, so I would have assumed that the  
30 diocese had spoken of that.  
31  
32 Q. Does it appear from this particular letter that there  
33 was no formal Towards Healing complaint made, but the  
34 information was coming in a different form?  
35 A. Yes.  
36  
37 Q. But you could still deal with it in an appropriate  
38 fashion in terms of passing the information to the police?  
39 A. Yes.  
40  
41 Q. Are you able to say now what sort of education was  
42 provided by the Professional Standards Office to bishops  
43 and their staff so that they knew what information to give  
44 to you?  
45 A. A response to the complaint, you mean?  
46  
47 Q. Yes, just any information that's provided by the

1 Professional Standards Office to assist people in the  
2 diocese, and bishops in particular, to know what work you  
3 did and how you could assist in terms of passing matters on  
4 to the police.

5 A. Yes.

6

7 Q. Were there education programs or how did that  
8 information get conveyed to those different dioceses?

9 A. When I received the complaint, I studied it and then  
10 I came to conclusions about the next step. I put this in a  
11 letter form to the bishop with a statement of complaint.

12

13 Q. I'm just asking for a step back from that. How did  
14 the bishops know about you and the work that you did and  
15 the procedures they needed to follow? Was that purely by  
16 virtue of the Towards Healing document being circulated?

17 A. No, I --

18

19 Q. If you are not able to say?

20 A. I understand that the development of Towards Healing  
21 was something that was approved by both the council of  
22 bishops and the council of religious superiors, so there  
23 was discussion at that level about it and there were  
24 teaching procedures, I understand, at bishop conference  
25 level.

26

27 Q. Did you on occasion attend meetings of the bishops to  
28 give any further information, or was that not part of your  
29 role?

30 A. I did appear before the national conference of  
31 bishops, but I don't think in reference to anything about  
32 the particular role.

33

34 Q. So your understanding is that the Towards Healing  
35 process was communicated to the different bishops and  
36 dioceses?

37 A. Yes.

38

39 Q. And then they would know from that what to provide to  
40 you, at least in general terms?

41 A. Yes.

42

43 Q. Mr Davoren, I'll show you another document which will  
44 stop me having to ask many other questions, and it is  
45 behind tab 309. You see that's a child sexual abuse  
46 information dissemination form?

47 A. Yes.

1  
2 Q. It appears to be directed to NSW Police Service Child  
3 Protection Enforcement Agency, so CPEA?

4 A. Yes.

5  
6 Q. Can you just outline in broad terms the role of the  
7 CPEA as you understood it in August 1999?

8 A. That was the police body that I was to speak to, and  
9 I had a series of communications with them, written ones.  
10 I visited them in their Redfern office on occasions and  
11 discussed specific cases with them.

12  
13 Q. This particular form - I want you to take a moment to  
14 have a look at the information that is annotated on it -  
15 this particular format, was that a type of form that you  
16 would use to communicate information to that agency?

17 A. That's my memory of it, yes.

18  
19 Q. You see down the bottom where it says "Notifying  
20 person", your name is there as acting on behalf of  
21 Bishop Malone. Do you see that?

22 A. Yes.

23  
24 Q. And there's a date 24 August 1999. So that's  
25 something like two weeks or a little less than two weeks -  
26 12 days - since the letter was received in your office. Is  
27 that the general sort of turnaround time as at 1999 in  
28 terms of you receiving information and then passing it on  
29 to the police, or did it vary?

30 A. It varied.

31  
32 Q. Was it your usual practice to try and pass the  
33 information on to the police within as reasonable a time  
34 frame or as quickly as you could do so?

35 A. I guess it depended on the nature of the complaint,  
36 but generally, yes.

37  
38 Q. In relation to complaints of a possible paedophile or  
39 paedophile activity, would you attempt to try and pass that  
40 information on as soon as you could?

41 A. In this particular case, since it refers to McAlinden,  
42 I already knew that the police were well aware of the  
43 situation.

44  
45 Q. Why do you say that you already knew the police were  
46 well aware of the situation as at August 1999?

47 A. I was advised by the diocese that he had a number of

1 complaints against him.

2

3 Q. Yes.

4 A. And that he had been - he had his faculties removed in  
5 1939 so he was not functioning as a priest in the diocese.

6

7 Q. You get that from the letter of 10 August 1999 behind  
8 tab 304 that we've just been looking at.

9 A. Yes.

10

11 Q. Why did that make you form the view that the police  
12 were already engaged?

13 A. There was a reference to the fact that there was a  
14 warrant out for his arrest by then.

15

16 Q. I'm going to show you some other documents that are  
17 dated October 1999, which do bear the information that  
18 you're now talking about. I don't want to split hairs  
19 about August and October 1999, but would you agree with me  
20 that it may be that you're thinking about information that  
21 became clear to you in October 1999, or are you confident  
22 on some basis that you knew things in August 1999, that the  
23 police were involved?

24 A. I could not make any definite statement about the  
25 months. I don't have a clear picture on that.

26

27 Q. We'll go through and be assisted by the documents  
28 unless you have a strong recollection that you were  
29 actually told by a specific person information about police  
30 involvement in August 1999. Do you have any such  
31 recollection, or are you reliant on a memory that may be a  
32 month or two out?

33 A. Yes, I - I can't make a definitive statement on that  
34 issue.

35

36 Q. So, with the child protection dissemination of  
37 information form that we've just been looking at behind  
38 tab 309, you see under the heading "Suspect details" there  
39 is the name of the priest, Denis McAlinden, and then in the  
40 last question in that part of the form there is:

41

42 *Does this person currently have access to*  
43 *children?*

44

45 These words appear:

46

47 *Not as far as is known.*

1  
2 Do you see that?  
3 A. I see that, yes.  
4  
5 Q. Do you know where that information came from?  
6 A. My understanding is that once the priest has his  
7 faculties removed he may not function as a priest.  
8  
9 Q. Is that your information there on that form? Can we  
10 assume that it is?  
11 A. Well, I was advised - again, I'm not sure of the  
12 dates - that his faculties were removed in 1993, which  
13 means that he should not have been able to function as a  
14 priest anywhere in the world thereafter.  
15  
16 Q. Did you put that information on the form "not as far  
17 as is known" based on your perception that as the man,  
18 McAlinden, wasn't functioning as a priest, that that meant  
19 that he wouldn't have access to children? Is that the way  
20 you read that part of the form?  
21 A. No, no, I'm only talking of it as a priest.  
22  
23 Q. I understand. You see under the heading "Offence  
24 details" there is "Date/Year Range" and you've got after  
25 that or it's noted after that "Not provided"; do you see  
26 that?  
27 A. Sorry?  
28  
29 Q. There is a heading about two-thirds of the way down  
30 the page headed "Offence details".  
31 A. Yes, right.  
32  
33 Q. And the first item is "Date/Year Range" and then there  
34 are the words that appear "Not provided"; do you see that?  
35 A. Right.  
36  
37 Q. Did you have a usual practice as at August 1999 to get  
38 the dates that the offences occurred?  
39 A. The offences that I was dealing with, yes; history,  
40 no.  
41  
42 Q. Is that because this information that came through was  
43 treated on a different basis to the usual Towards Healing  
44 complaints that you managed?  
45 A. Yes.  
46  
47 Q. Was it the position that you would use this material

1 as intelligence to convey to the police, to the extent that  
2 you had it and could use it?

3 A. And I was already advised that the police had put out  
4 a warrant for his arrest quite some time before.

5  
6 Q. We'll come to that and check the dates on that  
7 shortly.

8  
9 MS LONERGAN: Commissioner, I tender that form.

10  
11 THE COMMISSIONER: The child sexual abuse information,  
12 dissemination to the police form behind tab 309 will be  
13 admitted and marked exhibit 171.

14  
15 **EXHIBIT #171 CHILD SEXUAL ABUSE INFORMATION, DISSEMINATION**  
16 **TO THE POLICE FORM (TAB 309).**

17  
18 MS LONERGAN: Q. I'm just going to take you through the  
19 other correspondence that occurred around about that time  
20 before we go forward to some things that happened  
21 in October 1999. Mr Davoren, if you would not mind looking  
22 at the document that appears behind tab 308, and you see  
23 that is a short letter dated 24 August 1999 to Father  
24 Burston by you, the document behind tab 308.

25 A. Oh, I've got 307. Right.

26  
27 Q. You see that letter?

28 A. Yes.

29  
30 Q. You say in that letter:

31  
32 *We seem to have missed each other by a day*  
33 *or so.*

34  
35 Was it your usual practice then to make a phone call to the  
36 person who sent you the information at the diocese?

37 A. Yes, frequently I would. I wouldn't say I always did  
38 it, but yes.

39  
40 Q. Would you agree that appears to be what you're  
41 referring to there, that you had made an attempt at contact  
42 at least with Mr Burston?

43 A. Yes.

44  
45 Q. Sorry, Father Burston?

46 A. Yes.

47

1 Q. And then you go on to say:

2

3 *I will pass the matter on to the police and*  
4 *send you a copy of the formal*  
5 *communication.*

6

7 A. Yes.

8

9 Q. What was your practice then in terms of what the  
10 formal communication was that you would send back to the  
11 diocese?

12 A. I would resend a copy of what I had sent to the  
13 police.

14

15 Q. The usual practice that you followed then would have  
16 been to send a copy of the form that appears behind tab  
17 309?

18 A. Yes.

19

20 Q. Do you recollect whether you had any discussions with  
21 Father Burston about this particular information that you  
22 conveyed to the police, and if you don't have any  
23 recollection, please say so.

24 A. I don't have any recollection.

25

26 MS LONERGAN: I tender that letter.

27

28 THE COMMISSIONER: It's already tendered, 164.

29

30 MS LONERGAN: I'm indebted to you, Commissioner.

31

32 Q. Mr Davoren, you've given some evidence to the effect  
33 that under Towards Healing these documents received by you  
34 as director of the Professional Standards Office were  
35 called complaints - statement of complaint?

36 A. Yes.

37

38 Q. Behind tab 310 is a statement of complaint dated  
39 5 October 1999 regarding McAlinden. I ask you to just have  
40 a look at that and as well, to assist you, and I'll give  
41 you a moment to have a look at this document as well,  
42 behind tab 316 is a letter from you to [AE], which is the  
43 pseudonym of the lady who made this complaint, indicating  
44 that you received the complaint. .

45

46 MR BARAN: Can I intervene at this point? Does the  
47 witness have the pseudonym list in the witness box?



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THE COMMISSIONER: Yes. Mr Davoren, there used to be in the witness box a list of pseudonyms on a loose piece of paper.

THE WITNESS: Yes.

MS LONERGAN: Can I suggest a five-minute break to allow the witness to have a look at the statement of complaint and to familiarise himself with the pseudonym list?

THE COMMISSIONER: Yes.

**SHORT ADJOURNMENT**

MS LONERGAN: Commissioner, thank you for that time. That enabled Mr Davoren to have a moment to read that quite long complaint document which is handwritten.

Commissioner, before I proceed with the further questions, there has been a request from the media for access to exhibits 162 to 171 inclusive. If anyone at the bar table has an objection, if they could let me know or those who assist you know by 4.15.

Q. Mr Davoren, you've had an opportunity to read the statement of complaint behind tab 310. Mr Davoren?

A. Yes.

Q. Did you also take the opportunity to have a look at the letter of yours behind tab 316 to Ms [AE]?

A. Right. Yes, yes.

Q. Just leaving the pages open at the letter behind tab 316, was that your usual procedure, that you would send a letter to the person who had been involved in a statement of complaint advising them of what your plans were in terms of managing it?

A. Yes.

Q. And, in this particular case, you mentioned that there is a police investigation on foot. Do you see that?

A. Yes.

Q. Was it your usual practice to comment to that effect, that the next step will be the police investigation in circumstances where the complainant had reported the matter

1 to the police?

2 A. Yes.

3

4 Q. Was there a reason for that in terms of the general  
5 conduct of the Professional Standards Office, why the  
6 complainants were told that the police investigation will  
7 happen first?

8 A. I don't understand the question.

9

10 Q. Was there a policy or procedure reason why  
11 complainants were advised that the police investigation  
12 would happen first before any activity by the Professional  
13 Standards Office?

14 A. That was the standard procedure, yes. We certainly  
15 didn't carry out any investigation if the police was  
16 investigating.

17

18 Q. Would the usual practice be to discuss with the bishop  
19 any contents of a statement of complaint where it involved  
20 a priest who had engaged in sexually abusive conduct with a  
21 child, that is, any actions on your part? Would you ring  
22 the bishop or write to the bishop to talk about the level  
23 of conduct that had been complained about?

24 A. I would send the statement of complaint to the bishop,  
25 so he has all of this.

26

27 Q. And that was your usual practice?

28 A. Yes.

29

30 Q. And, in this case, just look behind tab 317, there is  
31 a letter dated 8 October 1999 by you to Bishop Malone. Do  
32 you see that?

33 A. Yes.

34

35 Q. And you see in the last paragraph, as well as  
36 enclosing the particular statement of complaint, you say  
37 that you would "be happy to talk to you about any or all of  
38 this as you wish"?

39 A. Yes.

40

41 Q. Was that something you usually wrote to the bishops,  
42 once you sent a complaint like this?

43 A. Yes.

44

45 Q. Having had an opportunity to read the content of the  
46 complaint by [AE], would you agree with me that it is a  
47 high level sexual offence?

1 A. Yes.

2

3 Q. In terms of sexual offences of a high level, did you  
4 change your practice at all in the way that you would deal  
5 with the bishops or deal with the complaint?

6 A. Well, in this case, he was no longer in the diocese,  
7 so that makes it somewhat different, but the procedure  
8 would be the same.

9

10 MS LONERGAN: Commissioner, I tender the statement of  
11 complaint of [AE].

12

13 THE COMMISSIONER: That is behind tab 310. The statement  
14 of complaint of [AE] will be exhibit 172.

15

16 **EXHIBIT #172 STATEMENT OF COMPLAINT OF [AE] (TAB 310).**

17

18 MS LONERGAN: I'll just ask one more question about that  
19 before we turn to another document.

20

21 Q. On the second page of that statement of complaint in a  
22 box about a quarter of the way down the page there is a  
23 particular part that deals with notification to the police.  
24 Do you see that?

25 A. Yes.

26

27 Q. You gave evidence earlier to the effect that  
28 complainants are asked to make it clear in their complaint  
29 what they want to do regarding the police? You gave  
30 evidence today to that effect.

31 A. Yes.

32

33 Q. So this box is where the complainant can notify their  
34 intentions?

35 A. That's right.

36

37 Q. That's what she has done here, that she intends to  
38 notify the police?

39 A. Yes.

40

41 MS LONERGAN: I also tender the document behind tab 316, a  
42 letter to [AE].

43

44 THE COMMISSIONER: The letter to [AE] from Mr Davoren of  
45 8 October 1999 will be exhibit 173.

46

47

1           **EXHIBIT #173 LETTER TO [AE] FROM MR DAVOREN OF 8/10/1999**  
2           **(TAB 316).**

3  
4           MS LONERGAN:   Also the document behind tab 317, the letter  
5           from Mr Davoren to Bishop Malone.

6  
7           THE COMMISSIONER:   The letter of the same date, 8 October  
8           1999, will be exhibit 174.

9  
10          **EXHIBIT #174 LETTER DATED 8/10/1999 FROM MR DAVOREN TO**  
11          **REVEREND MALONE (TAB 317).**

12  
13          MS LONERGAN:   Q.   I'm going to ask you a question, and  
14          there's no problem at all if you don't recollect, but in  
15          your letter of 8 October 1999 to Bishop Malone where you  
16          suggest that you would be happy to talk to Bishop Malone  
17          about this particular complaint, are you able to recollect  
18          whether you did so or not?

19          A.   Sorry, I didn't hear that.

20  
21          Q.   Are you able to recollect whether you actually spoke  
22          to Bishop Malone about this particular complaint at or  
23          around about this time?

24          A.   No, I can't recall whether I did or not.

25  
26          Q.   Behind tab 318 is a report on counselling provided to  
27          [AE] by Evelyn Woodward. Do you see that, pages 786 and  
28          787?

29          A.   I do.

30  
31          Q.   Can you outline who Evelyn Woodward was - or is?

32          A.   The name rings a bell, but I can't remember in detail.  
33          She was a qualified counsellor, and counselling was  
34          offered.

35  
36          Q.   Was she a religious sister?

37          A.   No.

38  
39          Q.   No?

40          A.   No.

41  
42          Q.   Not a religious sister?

43          A.   No.

44  
45          Q.   Are you confident that Evelyn Woodward was not a  
46          religious sister?

47          A.   No, I can't be that confident, but I'd be surprised if

1 she was. We normally didn't refer people to religious  
2 sisters for counselling.

3

4 Q. But if the religious sister was a qualified  
5 counsellor, there may have been an exception, would you  
6 agree?

7 A. No, I think we would have avoided that.

8

9 Q. You say you "think we would have avoided that". You  
10 have a personal view, do you, that that would not be an  
11 appropriate thing to do, to refer someone to a religious  
12 sister, or do you have a reason for offering that view?

13 A. Yes, I would think there's a possibility that girls  
14 who grew up in convents, went to convent schools, would  
15 have a rather unsettling reaction to nuns.

16

17 Q. So it's the nuns' sensibilities that you're worried  
18 about as opposed to the other way around, or is it  
19 something more subtle?

20 A. No, it's the victim, that we would not wish to burden  
21 her with something unnecessary. It would be better to have  
22 a non religious as the counsellor.

23

24 Q. A lay person as the counsellor?

25 A. Yes.

26

27 Q. Mr Davoren, if you would not mind looking behind  
28 tab 324, there's a letter from you dated 7 February 2000 to  
29 Bishop Malone. I'll just give you a moment to read that.

30 A. Right, I've read it.

31

32 Q. Was it your usual practice to take calls from  
33 complainants on occasions as director at Professional  
34 Standards Office?

35 A. Yes.

36

37 Q. Do you remember this particular lady, talking to this  
38 particular lady, or not?

39 A. I don't have a particular memory of it, no.

40

41 Q. In the third-last paragraph you suggest that "some  
42 direct action by the church" in her regard would be of  
43 assistance. Do you see that?

44 A. Yes.

45

46 Q. And was that usual for you to write to bishops in that  
47 way where you suggest some direct action?

1 A. Yes.

2

3 Q. And the reason behind that, was it to comply with the  
4 Towards Healing type of interface between victim and  
5 diocese? Is that why, or --

6 A. It was a facilitated meeting usually, so that the  
7 person met the bishop and the bishop could respond, and it  
8 was in many cases very helpful.

9

10 Q. Did you have more than one occasion to deal with  
11 Bishop Malone in relation to these Towards Healing-type  
12 complaints, and if you're unable to remember, please just  
13 say so.

14 A. Well, there was the McAlinden case and the Fletcher  
15 case. I don't know of any other.

16

17 Q. By my question, which was badly worded, what I meant  
18 was did you on more than one occasion deal with Bishop  
19 Malone in relation to victims of McAlinden's?

20 A. No, I don't have a specific memory about that. There  
21 was a second complaint in 2001 or so.

22

23 Q. Which we'll come to, yes.

24 A. So I was dealing with that, too, yes.

25

26 MS LONERGAN: I tender the letter of 7 February 2000 to  
27 Bishop Malone.

28

29 THE COMMISSIONER: The letter of 7 February 2000 from  
30 Mr Davoren to Bishop Malone will be admitted and marked  
31 exhibit 175.

32

33 **EXHIBIT #175 LETTER DATED 7/2/2000 FROM MR DAVOREN TO**  
34 **BISHOP MALONE (TAB 324).**

35

36 MS LONERGAN: Q. Just before we turn away from that  
37 particular letter, Mr Davoren, in paragraph 2 you talk  
38 about having received a phone call from [AE] and that she'd  
39 just been to the Maitland police, spoken to an officer and  
40 withdrawn her police complaint. Do you see that?

41 A. Yes.

42

43 Q. Are you able to recollect whether you had any role in  
44 encouraging or discouraging her from reactivating her  
45 complaint at all? If you don't recall, please say so.

46 A. I don't recall, no.

47

1 Q. Behind tab 325 is a letter from Bishop Malone to you.  
2 A. 325, is it?  
3  
4 Q. Yes, 325. You see it's a letter dated 28 February  
5 2000 and you see - I certainly don't mean to trick you and  
6 I appreciate it's some time ago - in the second  
7 paragraph there is a mention of Sister Evelyn Woodward  
8 having provided counselling.  
9 A. That rather disproves that she wasn't a religious.  
10 Yes, okay.  
11  
12 Q. Do you have a view as to the appropriateness or  
13 otherwise of a religious sister providing counselling in  
14 relation to this particular complaint?  
15 A. In hindsight, I would have thought that it would be a  
16 mistake, but perhaps at the time I wasn't thinking as  
17 clearly as that.  
18  
19 Q. Is it fair to say this was in the first few years of  
20 the Professional Standards Office --  
21 A. Yes.  
22  
23 Q. -- doing its role?  
24 A. Yes.  
25  
26 THE COMMISSIONER: It must be said, Mr Davoren, that  
27 Sister Woodward gives no indication in the way she signs  
28 the letter that you looked at earlier that she has any  
29 status as a religious nun.  
30  
31 THE WITNESS: Obviously I was wrong, yes.  
32  
33 THE COMMISSIONER: But perhaps understandably so as she  
34 didn't sign herself "sister".  
35  
36 THE WITNESS: Yes.  
37  
38 MS LONERGAN: Q. You see that in the second-last  
39 paragraph Bishop Malone states that he's happy to take  
40 cognisance of your suggestion about a facilitated meeting.  
41 A. Yes.  
42  
43 Q. And that's a positive sign from Bishop Malone, is it  
44 not?  
45 A. Yes.  
46  
47 MS LONERGAN: I tender that letter, Commissioner.

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THE COMMISSIONER: The letter to Mr Davoren from Bishop Malone of 28 February 2000 will be admitted and marked exhibit 176.

**EXHIBIT #176 LETTER TO MR DAVOREN FROM BISHOP MALONE OF 28/2/2000 (TAB 325).**

MS LONERGAN: Q. Mr Davoren, if you would not mind looking behind tab 326, it's a letter dated 31 March 2000 from you to Bishop Malone. Just read that to yourself.  
A. Yes.

Q. You see there's mention that Bishop Malone intended to discuss some aspects of the matter with [AE]'s therapist Sister Evelyn Woodward. Do you see that?  
A. Yes.

Q. I appreciate everybody is wise after the event, but given what you know now in broad terms as to the way in which these things perhaps could best be managed, what's your opinion about that particular proposed discussion, that is, a discussion between Bishop Malone and [AE]'s therapist?  
A. It would be a way of identifying the degree of damage that had been done. There's the question of confidentiality and [AE] would have had to agree to that discussion before a discussion took place between the therapist and the bishop.

Q. Was it your usual practice in 2000, Mr Davoren, to encourage further contact by the bishop with the particular victim, if you thought that would be a helpful thing?  
A. Yes.

Q. And, on occasion, you received calls from complainants and you could help facilitate the best process for the victims.  
A. Yes.

Q. Was that part of the way you tried to complete your role?  
A. It was.

MS LONERGAN: I tender that letter of 31 March, Commissioner.



1 THE COMMISSIONER: The letter from Mr Davoren to Bishop  
2 Malone of 31 March 2000 will be admitted and marked exhibit  
3 177.  
4

5 **EXHIBIT #177 LETTER FROM MR DAVOREN TO BISHOP MALONE DATED**  
6 **31/3/2000 (TAB 326).**  
7

8 MS LONERGAN: Q. In the following tab, 327, Mr Davoren,  
9 there is a letter from Bishop Malone to you acknowledging  
10 your letter and discussing the proposal to meet with [AE]  
11 and reassure her that she's not being rejected by the  
12 church. Do you see that?

13 A. Yes.  
14

15 Q. And that would have assisted in your processes and  
16 confirmed that Bishop Malone understood the importance of  
17 what you had asked him to do?

18 A. Very much so.  
19

20 MS LONERGAN: I tender that letter, Commissioner.  
21

22 THE COMMISSIONER: The letter to Mr Davoren from Bishop  
23 Malone of 10 May 2000 will be admitted and marked  
24 exhibit 178.  
25

26 **EXHIBIT #178 LETTER TO MR DAVOREN FROM BISHOP MALONE DATED**  
27 **10/5/2000 (TAB 327).**  
28

29 MS LONERGAN: Q. Mr Davoren, we'll have a break from the  
30 documents for the moment. Were there procedures at the  
31 Professional Standards Office whereby you were asked on  
32 occasion to assist with the location of any missing  
33 priests, or priests who weren't still working within their  
34 diocese?

35 A. No.  
36

37 Q. Do you recollect now any discussions with Bishop  
38 Malone regarding the police looking for McAlinden?

39 A. No, I have no memory of any discussion of that kind.  
40

41 Q. I'm going to ask you to close that volume and reach  
42 for volume 5. Look at the document behind tab 332. This  
43 is a document addressed to the National Committee for  
44 Professional Standards. I'm going to ask you to look at it  
45 overnight, but my question is a general one. Were you on  
46 the National Committee for Professional Standards, or not?

47 A. No.

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Q. So that committee was comprised of persons other than directors of various state professional standards offices, was that the position? It doesn't give you much help in the document itself as to whom it's directed, but my question is a more general one, Mr Davoren, whether you, by virtue of being the director of the Professional Standards Office in New South Wales, would be part of the National Committee for Professional Standards?

A. No.

Q. You've just had a quick look at that document I notice. Is this a document you've seen before or not?

A. No, I have not seen that before. That's from the Congregation for the Defence [sic] of Faith. It sounds as if it's come from the Vatican.

Q. Can we take it that, other than being asked to do a special guest appearance, you would not normally be present at any bishops' committee for professional standards?

A. No. I was answerable to a committee made up of five - two bishops and three heads of religious orders and they were answerable to the two conferences at state level, New South Wales.

Q. In your role as director of the New South Wales office, did you have any role in the drafting of or review of the mandate of the National Committee for Professional Standards?

A. No.

Q. That will speed things up significantly, you'll be pleased to know. If you look at the documents behind tabs 344 and 345, it's another complaint about McAlinden by a lady we're referring to as [AC]. Have you had a look at that?

A. Yes.

Q. The part I'm directing your particular attention to is the second page of the statement of complaint in the part that deals with the reporting to police.

A. Yes.

Q. You see there that this particular person has put an asterisk and said "see addendum", although she's noted that she doesn't intend to notify the police and she hasn't notified the police. Then if I can direct your attention

1 to the addendum which appears on page 912, and you see that  
2 this particular person said:

3

4

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9

*If other serious complaints are made about  
Father McAlinden, if the Professional  
Standards Office is made aware through  
other complaints of other (criminal)  
behaviour by him, then I would like my  
experience to be used in corroboration.*

10

11 Do you see that?

12

A. Yes.

13

14

Q. It's headed "Addendum re criminal behaviour". You see  
that at the top there.

15

16

A. Yes.

17

18

Q. Having read [AE]'s complaint, which is the one you  
read over the short break that we had, that was setting out  
criminal behaviour, wasn't it?

19

20

21

A. Yes.

22

23

Q. And this complaint sets out criminal behaviour as  
well, doesn't it?

24

25

A. It does.

26

27

Q. Are you able to say now whether you let the police  
know about this particular wish of [AC]?

28

29

A. My recollection is that I notified the police that we  
had received this complaint, but I did not identify the  
complainant, and I presume - and this is just a  
presumption - that, had they indicated they wanted to  
follow that up directly, that I would approach the  
complainant and see if I could talk her into us giving her  
name as well.

30

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37

Q. So is that the way things worked with the CPEA at the  
time, now we're looking at mid 2002, that information would  
be conveyed to them, the CPEA --

38

39

40

A. Yes.

41

42

Q. -- and they would get in touch with you when you could  
then be a liaison point to see if any victims wanted to  
come forward with more details?

43

44

45

A. Yes.

46

47

Q. On occasion, did that happen, did that function

1 successfully, that you were contacted by the CPEA and you  
2 were able to assist facilitating matters proceeding down  
3 the course of police involvement?

4 A. In other cases, yes. I have no memory of these cases.  
5

6 Q. That's a very proper answer, thank you. Behind  
7 tab 345 is a letter by you to [AC] acknowledging her  
8 particular complaint and confirming that you sent it to  
9 Bishop Malone?

10 A. Right.  
11

12 MS LONERGAN: And, Commissioner, I tender the statement of  
13 complaint behind tab 344 and the letter from Mr Davoren to  
14 [AC] behind tab 345.  
15

16 THE COMMISSIONER: The statement of complaint by [AC]  
17 behind tab 344 will be admitted and marked exhibit 179.  
18

19 **EXHIBIT #179 STATEMENT OF COMPLAINT BY [AC] (TAB 344).**  
20

21 THE COMMISSIONER: The letter behind tab 345 from  
22 Mr Davoren to [AC] will be exhibit 180.  
23

24 **EXHIBIT #180 LETTER DATED 14/6/2002 FROM MR DAVOREN**  
25 **(TAB 345).**  
26

27 MS LONERGAN: Q. I'm going to ask you if you've seen the  
28 letter that appears behind tab 346 before. I'm not  
29 suggesting that you necessarily have. It's a letter dated  
30 20 June 2002 by Bishop Malone to [AC] and in the first  
31 paragraph there is a mention of the following, that  
32 McAlinden is still alive and living in Western Australia.  
33

34 A. Right.  
35

36 Q. First of all, have you seen this letter before?  
37

38 A. Yes, I have.  
39

40 Q. Did you see it in preparation for giving evidence, or  
41 on some other occasion?

42 A. In preparation to giving evidence, yes.  
43

44 Q. Prior to that, had you seen this particular letter  
45 before?  
46

47 A. I was aware that the bishop had contacted [AC] and  
I think he had a meeting with her, but I wouldn't swear to  
that.

1 Q. In terms of any basis for knowledge that McAlinden was  
2 still alive and living in Western Australia, as at 2002 was  
3 any information to that effect shared with you?

4 A. No, I --

5

6 Q. If you don't recollect, please say so.

7 A. -- can't remember.

8

9 Q. Was it your impression, based on what you knew from  
10 various sources, that nobody was sure where McAlinden was  
11 at the time you were dealing with complaints in relation to  
12 him?

13 A. That was, yes, the impression I got.

14

15 MS LONERGAN: Is that a convenient time, Commissioner?

16

17 THE COMMISSIONER: Yes, thank you.

18

19 MS LONERGAN: I understand Mr Kell has a particular  
20 administrative matter that needs to be attended to.

21

22 MR KELL: Commissioner, practitioners have previously been  
23 notified that certain statutory declarations would be  
24 tendered today at this time relating to both TOR-1 and  
25 TOR-2. There have been some communications and some  
26 redactions to some of the documents, but I will just tender  
27 them. There are ten documents to tender and I'll tender  
28 them one by one, if I can. The first --

29

30 THE COMMISSIONER: May Mr Davoren stand down?

31

32 MR KELL: Yes.

33

34 THE COMMISSIONER: Thank you, Mr Davoren. You are  
35 excused.

36

37 THE WITNESS: Do I have to appear again?

38

39 THE COMMISSIONER: Yes, we are not quite finished with you  
40 yet, I am sorry to say. 10 o'clock tomorrow for  
41 Mr Davoren?

42

43 MS LONERGAN: Yes, and for Mr Davoren's benefit, I'll be  
44 about another 15 minutes in examining him and then others  
45 at the bar table may take a little time.

46

47 THE COMMISSIONER: Thank you, sir. See you tomorrow.

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MR KELL: If I deal with them in two batches, I hand up the first batch, Commissioner. I'll deal first with five statutory declarations that relate to the TOR-1 witnesses. The first is a statutory declaration of Kylie Cronin dated 2 July 2013.

THE COMMISSIONER: The statutory declaration of Kylie Marie Cronin will be admitted and marked exhibit 181.

**EXHIBIT #181 STATUTORY DECLARATION OF KYLIE MARIE CRONIN.**

MR KELL: The second is a statutory declaration of Chief Superintendent Malcolm Lanyon dated 3 July 2013 and I tender that.

THE COMMISSIONER: The statutory declaration by Malcolm Arthur Lanyon will be admitted and marked exhibit 182.

**EXHIBIT #182 STATUTORY DECLARATION BY MALCOLM ARTHUR LANYON DATED 3/7/2013.**

MR KELL: The third is a statutory declaration of Detective Inspector Ann Joy dated 4 July 2013. I tender that.

THE COMMISSIONER: The statutory declaration of Ann Louise Joy will be admitted and marked exhibit 183.

**EXHIBIT #183 STATUTORY DECLARATION OF ANN LOUISE JOY DATED 4/7/2013.**

MR KELL: The fourth is a statutory declaration of Sergeant Scott Metcalfe dated 2 July 2013. I tender that.

THE COMMISSIONER: The statutory declaration of Scott Andrew Metcalfe will be admitted and marked exhibit 184.

**EXHIBIT #184 STATUTORY DECLARATION OF SCOTT ANDREW METCALFE DATED 2/7/2013**

MR KELL: The fifth of that batch is a statutory declaration of Sergeant Stephen Rae dated 2 July 2013 and I tender that.

THE COMMISSIONER: The statutory declaration of Stephen David Rae will be admitted and marked exhibit 185.

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**EXHIBIT #185 STATUTORY DECLARATION OF STEPHEN DAVID RAE  
DATED 2/7/2013.**

MR KELL: Commissioner, there are two further declarations relating to TOR-1, which I'll just hand up two copies. There is a statutory declaration of Hamish Fitzhardinge dated 17 July 2013. I tender that.

THE COMMISSIONER: The statutory declaration of Hamish Berkeley Fitzhardinge will be admitted and marked exhibit 186.

**EXHIBIT #186 STATUTORY DECLARATION OF HAMISH BERKELEY  
FITZHARDINGE DATED 17/7/2013.**

MR KELL: And a statutory declaration of Jillian Kelton dated 2 July 2013. I tender that.

THE COMMISSIONER: The statutory declaration of Jillian Ann Kelton will be admitted and marked exhibit 187.

**EXHIBIT #187 STATUTORY DECLARATION OF JILLIAN ANN KELTON  
DATED 2/7/2013.**

MR GYLES: There is an issue in relation to the annexure to that. Redactions have been made. The outstanding issue concerns the third page of the annexure and, Commissioner, you'll see in the paragraph commencing "the OIC". I should indicate, Commissioner, that this annexure is Detective Kelton's --

THE COMMISSIONER: I think Ms Kelton is a solicitor.

MR GYLES: I'm sorry, it is Jillian Kelton's notes of a conference with then Detective Sergeant Fox, who is described in the document as the OIC, the officer in charge. On the third page there is a reference to the OIC speaking to Father Searle.

THE COMMISSIONER: Yes.

MR GYLES: The words that we say should not be permitted to be tendered commence about halfway through that paragraph from the word "Early" through to the end of the following paragraph, which is the word "close". The reasons for this, Commissioner, are, first, that this is

1 not a document we had, for example, when we were  
2 cross-examining Detective Chief Inspector Fox. Therefore,  
3 it is of marginal utility or probative value in any event.  
4

5 Secondly, this is a matter which you have received  
6 direct evidence of, and the description that we see that  
7 was given to the solicitor by Detective Sergeant Fox at the  
8 time is different, in a sense, from that, and the language  
9 is pejorative, particularly if one goes to, for example,  
10 the final sentence, and it is of no real assistance to you.  
11

12 In my respectful submission, this material would not  
13 be able to be tendered in this way where you have the best  
14 evidence going to this matter and in any event it would be  
15 mischievous for it to be able to be reported in the way in  
16 which the language is used.  
17

18 THE COMMISSIONER: The problem is, Mr Gyles, is it not,  
19 once again, and it has not arisen for a while, it is  
20 pertinent for me to have before me material of that kind in  
21 order to determine certain matters about the person  
22 referred to as the OIC there.  
23

24 MR GYLES: I can appreciate that. If you take that  
25 position, then I would restrict the application to one of  
26 non publication --  
27

28 THE COMMISSIONER: Yes.  
29

30 MR GYLES: -- given that it does muddy the waters on an  
31 issue that has now been fully dealt with and it deals with  
32 it in an emotive way which might lead to it being  
33 unhelpful, for want of a neutral term, in terms of the  
34 reporting of, for example, what we see in the final second  
35 of the paragraphs that I'm seeking a non publication order.  
36

37 THE COMMISSIONER: Yes. From what the person referred to  
38 as the OIC observes in relation to one person and his  
39 statement, the whole of the Catholic Church gets the blame.  
40

41 MR GYLES: The use of the words "strange" and "bizarre",  
42 that's a very unusual way to look at what's happened and  
43 you've then got what is, as I say, a pejorative statement  
44 as to his views about what the consequences are. It is  
45 simply not helpful.  
46

47 THE COMMISSIONER: Yes. Frankly, I'm inclined to the view



1 that that section ought not be published, Mr Kell. Do you  
2 have any violent opposition to that course?

3  
4 MR KELL: Not "violent" opposition, Commissioner.

5  
6 THE COMMISSIONER: I make a non-publication order in  
7 relation to the words on page 3 of annexure A to  
8 Ms Kelton's statutory declaration from the words commencing  
9 "Early the following week" until "close" in the first and  
10 second paragraphs on that page.

11  
12 MR KELL: Thank you, Commissioner. Commissioner, there  
13 are three declarations relating to the second term of  
14 reference, and I'll just hand them up. Commissioner, the  
15 first is a statutory declaration of Bishop Justin Joseph  
16 Bianchini dated 5 April 2013.

17  
18 THE COMMISSIONER: The statutory declaration of Justin  
19 Joseph Bianchini of 5 April 2013 will be admitted and  
20 marked exhibit 188.

21  
22 **EXHIBIT #188 STATUTORY DECLARATION OF JUSTIN JOSEPH**  
23 **BIANCHINI DATED 5/4/2013.**

24  
25 MR GYLES: Commissioner, can I say something about this  
26 while it's being tendered? You might appreciate,  
27 Commissioner, that the relevance of this arises from a  
28 letter of 9 June 1994, tab 236, which I don't think has  
29 been tendered yet. Commissioner, if you go to that, you'll  
30 see that it contains some information and what Bishop  
31 Bianchini tells us is, in effect, what is the source of the  
32 information. Commissioner, you'll see that in 2(c) that  
33 there is --

34  
35 MR KELL: Commissioner, I'm tendering documents at the  
36 moment. It's not a time for making submissions about those  
37 documents, in my submission, unless there is an objection  
38 being taken.

39  
40 THE COMMISSIONER: Is this an objection to the tender?

41  
42 MR GYLES: I apologise to my learned friend for not giving  
43 notification of this objection, but I'll object to the  
44 second sentence of subparagraph 2(c). It indicates a  
45 possible source of information contained in the letter of  
46 9 June 1994, and the appropriate way for that to be proved,  
47 if that information does come from Archbishop Hickey, is

1 for that information to come directly.

2

3 THE COMMISSIONER: Yes. Am I to understand --

4

5 MR GYLES: That is my point.

6

7 THE COMMISSIONER: -- that what Bishop Bianchini says is  
8 that he got his information from Archbishop Hickey?

9

10 MR GYLES: That's right. That's all I'm attempting to  
11 note on the tender of this document, that it doesn't deal  
12 with direct evidence going to the source of that  
13 information.

14

15 THE COMMISSIONER: There is a gap.

16

17 MR GYLES: That's the point that I was seeking to make.

18

19 THE COMMISSIONER: Mr Kell, is there anything to supply  
20 that gap? Do we have anything from Archbishop Hickey?

21

22 MR KELL: Commissioner, what Bishop Bianchini indicates is  
23 his recollection as to where he obtained that information  
24 from. He's able to give that evidence, and he does so.  
25 I should also indicate that we had asked for objections to  
26 be provided at a previous time, and this has not been  
27 notified before. These are declarations that go to matters  
28 of some importance, but matters that it is not anticipated  
29 that there would be a requirement to call witnesses, but if  
30 the diocese wants the bishop to be brought over to give  
31 evidence about these matters, then steps will need to be  
32 taken.

33

34 I anticipate for the matter that is referred to in  
35 paragraph 2(c), it's a nit-picking sort of point and he's  
36 able to give the evidence he gives there as to where he got  
37 information.

38

39 MR GYLES: We're a long way from the diocese requiring the  
40 archbishop to come over here to give evidence at this  
41 point.

42

43 THE COMMISSIONER: Is he still living?

44

45 MR GYLES: I'm not sure.

46

47 MR KELL: As at 5 April, he was. I've got no information

1 to the contrary.

2

3 MR GYLES: I should say that I had not raised this with my  
4 learned friend, so I'm not being critical at all, but  
5 perhaps if we could deal with this --

6

7 THE COMMISSIONER: Can we tender it on the basis that it's  
8 simply what it says, that's his recollection, that's where  
9 he got the information.

10

11 MR GYLES: I'm content with that.

12

13 MR KELL: Then there is a statutory declaration of Julie  
14 Craig dated 27 June 2013. I tender that.

15

16 THE COMMISSIONER: The statutory declaration of Julie  
17 Craig will be admitted and marked exhibit 189.

18

19 **EXHIBIT #189 STATUTORY DECLARATION OF JULIE CRAIG DATED**  
20 **27/6/2013.**

21

22 MR KELL: Finally, there is a statutory declaration of  
23 Michael John Salmon dated 26 June 2013 and I tender that.

24

25 MS GERACE: Commissioner, I apologise. Could I raise an  
26 objection, and I must say I have not done this beforehand  
27 and I'm sorry that I have not. I don't know if this has  
28 been dealt with by anyone else, but in relation to  
29 paragraph 7 of Mr Salmon's statutory declaration, has that  
30 been redacted?

31

32 THE COMMISSIONER: Paragraph 7 is still there.

33

34 MS GERACE: The objection is on the basis that the  
35 information is of a very general nature and is hearsay,  
36 dealing with apparently the level of confusion within the  
37 office that he believes existed at some time about  
38 reporting requirements or otherwise. The statements are  
39 made:

40

41 *I am aware that particularly in the earlier*  
42 *years following the establishment of the*  
43 *... Standards Office and for a period of*  
44 *time following my appointment in 2003 there*  
45 *existed an apparent level of confusion and*  
46 *ambiguity about certain reporting*  
47 *requirements concerning child sexual*

1                   *abuse ...*

2

3                   And it specifically goes on to what he believes that level  
4                   of confusion was. First, he speaks of a period of time  
5                   prior to his appointment to the office. He then speaks  
6                   about a period of time after his appointment. He does not  
7                   indicate how he has obtained that information or otherwise,  
8                   and its merit in those terms is very, very low, I'd submit.

9

10                  THE COMMISSIONER: He speaks about the time after his  
11                  appointment in 2003, and he does get more specific about  
12                  where the confusion is, that is, the reporting of general  
13                  intelligence information as distinct from the specific  
14                  complaints.

15

16                  MS GERACE: He does, but the source of that information,  
17                  he doesn't say if it's something he has observed or been  
18                  told. How frequent or how common that confusion was isn't  
19                  apparent from the material. Its significance or otherwise,  
20                  to the extent the material could be relied upon to  
21                  establish a confusion to the matters before this  
22                  Commission, is not really established by that material. In  
23                  those circumstances, the information is of very little  
24                  merit and, because it's of a hearsay nature --

25

26                  THE COMMISSIONER: Is it necessarily hearsay nature if he  
27                  was working there at the time?

28

29                  MR GERACE: Unless it's a matter that he has observed from  
30                  his own interactions, yes, it is.

31

32                  THE COMMISSIONER: But he doesn't say that anyone told him  
33                  that. He's talking only, isn't he, of the period after his  
34                  appointment in 2003?

35

36                  MR GERACE: No. Well, that's not how I read that  
37                  paragraph. "I am aware ... that in the earlier years" -  
38                  he's talking about a time before he's come on - and for a  
39                  period of time following his appointment in 2003. If he  
40                  was talking about --

41

42                  THE COMMISSIONER: Would you be happy if we took out  
43                  "particularly in the earlier years following the  
44                  establishment"?

45

46                  MR BARAN: This actually affects me and my client. I've  
47                  been conducting the inquiry to the extent that I am

1 involved on the basis that this witness has not been  
2 required for cross-examination and the statutory  
3 declaration was going to be tendered without objection.  
4 There has been no notification to us in terms of there  
5 being any issue regarding Mr Salmon. If that's now going  
6 to change, we're caught by surprise.

7  
8 THE COMMISSIONER: It may not change. We may be able to  
9 achieve some accommodation in the way we express things.  
10 What do you say, Mr Kell?

11  
12 MR KELL: I'm content to postpone finalising the tender  
13 until the morning. If he's required for cross-examination,  
14 that can be attended to. He can certainly give the  
15 evidence which is in paragraph 7 based on his --

16  
17 THE COMMISSIONER: Observations.

18  
19 MR KELL: -- personal observations, which is how that  
20 paragraph could be read.

21  
22 THE COMMISSIONER: Certainly for the period after he  
23 arrived there in 2003.

24  
25 MR KELL: He can certainly give that evidence. I'm  
26 content to finalise the tender first thing tomorrow  
27 morning.

28  
29 MS GERACE: I've indicated I'll consider my position and  
30 speak to your counsel assisting.

31  
32 THE COMMISSIONER: Mr Barren, you can remain in the loop.

33  
34 MR BARAN: I can remain in the ether.

35  
36 THE COMMISSIONER: Well, involved in productive  
37 discussions - doubtless.

38  
39 MR KELL: There is a requirement for a 10.30 start  
40 tomorrow because of other matters arising.

41  
42 THE COMMISSIONER: Has someone told Mr Davoren?

43  
44 MR BARAN: I'll do that.

45  
46 **AT 4.16PM THE COMMISSION ADJOURNED UNTIL**  
47 **TUESDAY, 30 JULY 2013 AT 10.30AM**

**#**

**#162** [1] - 1917:20  
**#163** [1] - 1917:27  
**#164** [1] - 1936:26  
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